Long Leases (Scotland) Act 2012

2012 asp 9

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The Bill for this Act of the Scottish Parliament was passed by the Parliament on 28th June 2012 and received Royal Assent on 7th August 2012

An Act of the Scottish Parliament to convert certain long leases into ownership; to provide for the conversion into real burdens of certain rights and obligations under such leases; to provide for payment to former owners of land of compensation for loss of it on conversion; and for connected purposes.

PART 1 S

CONVERSION OF LONG LEASE TO OWNERSHIP

Determination of "qualifying lease"

1 Meaning of "qualifying lease" S

(1) A lease is a "qualifying lease" if it complies with subsection (3).

(2) Subsection (1) is subject to section 3.

(3) A lease complies with this subsection if, immediately before the appointed day, it is a right of lease in land—

(a) which is registered,

(b) granted for a period of more than 175 years, and

(c) in respect of which the unexpired portion of that period is—

(i) where the subjects of the lease wholly or mainly comprise a private dwelling house, more than 100 years,

(ii) in any other case, more than 175 years.

(4) But a lease does not so comply if—

(a) the annual rent payable under the lease is over £100,

(b) the subjects of the lease include a harbour (either wholly or partly) in relation to which there is a harbour authority,

(c) it is one granted for the sole purpose of allowing the tenant to install and maintain pipes or cables, or

(d) it is one either—

(i) of minerals, or

(ii) which includes minerals and in respect of which a royalty, lordship or other payment of rent determined by reference to the exploitation of those minerals is or may be payable.

(5) Where a lease is divided (whether as a result of partial assignation or otherwise), each part is treated as a separate lease for the purposes of this Act.

(6) For the purposes of subsection (3)(c)(i), "dwelling house" includes any yard, garden, outbuilding or other pertinent.

Commencement Information

I1 S. 1 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

2 Further provision about annual rent S

(1) This section applies for the purposes of section 1(4)(a) in determining the annual rent payable under a lease.

(2) Subject to subsections (4) to (6), the rent payable under a lease is the rent as set out in a document mentioned in subsection (3).

(3) The documents are—

(a) the lease,

(b) a registered assignation of the lease, or

(c) a registered minute of variation or agreement in relation to the lease.

(4) Where a *cumulo* rent is payable in relation to two or more leases, the annual rent payable under each lease is deemed to be nil.

(5) Any rent payable under a lease which is expressed wholly or partly in non-monetary terms is, to the extent that it is so expressed, to be left out of account.

(6) Any rent payable under a lease which is variable from year to year is, to the extent that it is so variable, to be left out of account.

Commencement Information

I2 S. 2 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

3 Only one lease is qualifying lease S

(1) This section applies where land is subject to two or more potential qualifying leases.

(2) Subsections (3) and (4) have effect for the purposes of determining—

(a) which of the leases is the qualifying lease, and

(b) of which land the lease is a qualifying lease.

(3) A potential qualifying lease is not a qualifying lease if all of the land which forms the subjects of the lease forms the subjects of an inferior lease.

(4) In any other case, a potential qualifying lease is the qualifying lease of land that—
  (a) forms the subjects of the potential qualifying lease, but
  (b) does not form the subjects of an inferior lease.

(5) In this section—
  "potential qualifying lease" means a lease that complies with section 1(3),
  "inferior lease", in relation to a potential qualifying lease, means a sublease—
    (a) of the whole or part of the subjects of the potential qualifying lease, and
    (b) which is itself a potential qualifying lease.

Commencement Information
I3 S. 3 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

Conversion of right of lease to ownership

4 Conversion of right of lease to right of ownership S

(1) On the appointed day—
  (a) a qualifying lease becomes the right of ownership of the land in relation to which it is the qualifying lease,
  (b) any right of ownership of that land existing immediately before that day is extinguished, and
  (c) any superior lease is extinguished.

(2) Subsection (1) is subject to section 62(1) (exempt leases not to convert).

(3) In this Act, a "superior lease" means a lease of land in relation to which, and to the extent that, a qualifying lease is a sublease of that land.

Commencement Information
I4 S. 4 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

Consequences of conversion

5 Extinction of certain rights and obligations S

(1) Subject to subsection (2), and sections 6 and 7 and Part 2, all rights and obligations arising (whether expressly or by implication) from—
  (a) a qualifying lease, and
  (b) any superior lease,
  are extinguished on the appointed day.

(2) Subsection (1) does not affect any right or obligation arising from a lease mentioned in that subsection in so far as that right or obligation is, by its nature, enforceable only

as a personal right or obligation, that is to say, the right or obligation could not be enforced by or against the successor of a party to the lease.

(3) Despite subsection (1)—

(a) rent continues to be payable for any period before the appointed day, and

(b) if (in so far as so payable) it has not fallen due before that day, it falls due on that day.

(4) Subject to subsection (5)—

(a) on or after the appointed day, no proceedings for enforcement of any such rights or obligations as are mentioned in subsection (1) may be commenced,

(b) any proceedings already commenced for such enforcement are deemed to have been abandoned on that day and may, without further process and without any requirement that full judicial expenses be paid by the pursuer, be dismissed accordingly, and

(c) any decree or interlocutor already pronounced in proceedings for such enforcement is deemed to have been reduced or (as the case may be) recalled on that day.

(5) Subsection (4) does not affect any proceedings, decree or interlocutor in relation to—

(a) a right or obligation which subsists by virtue of section 6,

(b) a right or obligation which is created under section 7,

(c) a right or obligation which is converted under Part 2,

(d) a right to recover damages or to the payment of money (including rent), or

(e) a right of irritancy.

Commencement Information

I5 S. 5 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

6 Subordinate real rights, reservations and pertinents S

(1) This section applies where a right of ownership in land is created by the conversion of a qualifying lease under section 4(1)(a) (such land being referred to in this section as "the converted land").

(2) The converted land is subject to any subordinate real rights to which the qualifying lease was, immediately before the appointed day, subject.

(3) The converted land is, subject to subsection (4), subject to—

(a) any subordinate real rights (other than any superior lease extinguished by virtue of section 4(1)(c)), and

(b) any other encumbrances,

to which the converted land itself was, immediately before the appointed day, subject.

(4) Any heritable security or proper liferent to which the converted land itself was subject immediately before the appointed day is, on that day and to the extent that the security or liferent affected the land, extinguished.

(5) The converted land—

(a) includes any pertinent (whether express or implied) of the qualifying lease which, by its nature, may be a pertinent of land, and

(b) excludes anything capable of being held as a separate tenement in land (including any right so held by virtue of section 8) which is reserved (whether expressly or by implication) from—

(i) the qualifying lease, or

(ii) any superior lease.

Commencement Information

I6 S. 6 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

7 Creation of servitudes on conversion S

(1) This section applies where a right of ownership in land is created by the conversion of a qualifying lease under section 4(1)(a) (such land being referred to in this section as "the converted land").

(2) The converted land includes or (as the case may be) is subject to any servitudes which would have been created (whether expressly, by implication or by positive prescription) had the original grant of—

(a) the qualifying lease,

(b) any superior lease, or

(c) any partial assignation of a lease, where the subjects of that lease include the land which forms the subjects of the qualifying lease,

been a conveyance of land.

Commencement Information

I7 S. 7 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(a)**

8 Conversion of reserved sporting rights S

(1) This section applies where a right of—

(a) game, or

(b) fishing,

is reserved (whether expressly or by implication) from a qualifying lease or superior lease (such a right being referred to in this Act as a "sporting right").

(2) A landlord may, before the appointed day, execute and register a notice in the prescribed form.

(3) The notice must—

(a) set out the title of the landlord,

(b) identify the land affected by the sporting right,

(c) set out the terms of such right, and

(d) set out the terms of any counter-obligation to the right.

(4) For the purposes of subsection (2)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (3)(b), and

(b) the notice may be registered against the title of the owner of the land or the tenant under the qualifying lease.

(5) Before submitting a notice for registration under this section, the landlord must swear or affirm before a notary public that to the best of the knowledge and belief of the landlord all the information contained in the notice is true.

(6) For the purposes of subsection (5)—

(a) if the landlord is—

(i) an individual unable by reason of legal disability, or incapacity, to swear or affirm as mentioned in that subsection, then a legal representative of the landlord may swear or affirm, or

(ii) not an individual, then any person authorised to sign documents on its behalf may swear or affirm, and

(b) any reference in that subsection to the landlord is to be construed in accordance with paragraph (a).

(7) If subsections (2) to (6) are complied with (and immediately before the appointed day the sporting right to which the notice relates is still enforceable), on the appointed day—

(a) that right becomes a separate tenement in land,

(b) in the case of a right of game, the separate tenement comprises—

(i) in a case where the right is expressly reserved, the rights and obligations specified in the lease and, in so far as is consistent with those express rights and obligations, an exclusive right to take hare, pheasant, partridge, grouse, and ptarmigan (any particular type of each where applicable),

(ii) in a case where the right is reserved by implication, an exclusive right to take hare, pheasant, partridge, grouse and ptarmigan (any particular type of each where applicable), and

(c) in the case of a right of fishing, the separate tenement comprises—

(i) in a case where the right is expressly reserved, the rights and obligations specified in the lease and, in so far as is consistent with those express rights and obligations, an exclusive right to fish for freshwater fish,

(ii) in a case where the right is reserved by implication, an exclusive right to fish for freshwater fish.

(8) Any exclusive right conferred by subsection (7)(b) is subject to section 1 of the Ground Game Act 1880 (c.47) (right of occupier to kill and take ground game).

(9) Where a right becomes, under subsection (7)(a), a separate tenement in land—

(a) that right is subject to any counter-obligation enforceable immediately before the appointed day, and

(b) without prejudice to any other way in which such a counter-obligation may be extinguished, any such counter-obligation is extinguished on the extinction of the right.

(10) In this section and section 9, any reference to a “landlord” is a reference—

(a) in a case where there is one superior lease, to the landlord under the superior lease,

(b) in a case where there are two or more superior leases, to the landlord under whichever of those leases is not itself subject to a superior lease.

(11) This section is subject to section 75.

Commencement Information

I8 S. 8(1)(3)-(11) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(a)**

I9 S. 8(2) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I10 S. 8(2) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(a)**

9 Further provision for section 8 S

(1) Where more than one qualifying lease is affected by the same sporting right, a landlord must, if that landlord wishes to execute and register a notice under section 8(2) in relation to those qualifying leases in respect of that right, do so in relation to each separately.

(2) Where a qualifying lease is affected by more than one sporting right, a landlord may, if that landlord wishes to execute and register a notice under section 8(2), do so by a single notice.

Commencement Information

I11 S. 9 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(a)**

PART 2 S

CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

Determination of "qualifying conditions"

10 Qualifying conditions S

(1) A condition is a "qualifying condition" if—

(a) it is constituted in accordance with subsection (2),

(b) it is enforceable against the tenant (and the successors of the tenant) of—

(i) the qualifying lease, or

(ii) any superior lease,

(c) it complies with subsection (3), and

(d) it is not an excluded condition.

(2) A condition is constituted in accordance with this subsection if it is set out in—

(a) the qualifying lease,

(b) any superior lease which is not a lease granted by virtue of section 17(1) of the Land Tenure Reform (Scotland) Act 1974 (c.38) (interposed leases),

(c) any deed varying a lease mentioned in paragraph (a) or (b), or

(d) any assignation of or other deed relating to a lease mentioned in paragraph (a) or (b) where the assignation or other deed is registered under section 3 of the Registration of Leases (Scotland) Act 1857 (c.26) (assignation of leases).

(3) A condition complies with this subsection if it consists of—

(a) an obligation to do something (including an obligation to defray, or contribute towards, some cost),

(b) an obligation to refrain from doing something,

(c) a right to enter, or otherwise make use of, property which is for a purpose ancillary to an obligation mentioned in paragraph (a) or (b), or

(d) a provision for management or administration which is for a purpose ancillary to an obligation mentioned in paragraph (a) or (b).

(4) In determining whether a condition complies with subsection (3), regard is to be had to the effect of the condition rather than to the way in which the condition is expressed.

(5) A condition is an "excluded condition" if—

(a) it is an obligation to pay rent,

(b) it confers a right of irritancy,

(c) the provision constituting it states that it is enforceable only by irritancy,

(d) it imposes a restriction on—

(i) assignation, or

(ii) subletting,

that is neither a right of pre-emption, a right of redemption or reversion nor any other type of option to acquire the lease, or

(e) it imposes a monetary penalty which is payable on the failure of the tenant to comply with any of the other conditions under the lease.

Commencement Information

I12 S. 10 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(b)**

11 Restriction on conversion of qualifying conditions S

A qualifying condition does not become a real burden by virtue of this Part unless the real burden that would be so created complies with the provisions of section 3 (omitting subsection (5)) of the Title Conditions (Scotland) Act 2003 (asp 9).

Commencement Information

I13 S. 11 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(b)**

Meaning of "qualifying land"

12 Meaning of "qualifying land" S

In this Act, "qualifying land", in relation to a qualifying condition, means the land which forms the subjects of the qualifying lease.

Commencement Information
I14 S. 12 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(b)**

Entitlement to enforce qualifying conditions

13 Determination of who may enforce condition S

(1) Subsections (2) and (3) have effect for the purposes of determining in relation to sections 14 to 28 whether a person is entitled to enforce a qualifying condition.

(2) A person having right to property to which the entitlement to enforce a qualifying condition attaches may enforce the qualifying condition whether or not the person has completed title to that right (and where more than one person comes within that description, only the person who most recently acquired that right may enforce the qualifying condition).

(3) Where before the appointed day the tenant under a lease—
  (a) assigns the lease in part, and
  (b) includes in the assignation or (as the case may be) a deed registered under section 3 of the Registration of Leases (Scotland) Act 1857 (c.26), a qualifying condition,

  a person who is a tenant or subtenant of the part of the land that is not so assigned (or a successor as tenant or subtenant of such person) may enforce the qualifying condition.

(4) In sections 14 to 21, a person is an "entitled person" if that person is entitled to enforce a qualifying condition (whether as landlord or otherwise).

(5) Where the entitlement to enforce a qualifying condition is held in pro indiviso shares—
  (a) if the entitlement is held as landlord, any reference in sections 14 to 21 to an entitled person is a reference to all of the persons holding such a share, and
  (b) if the entitlement is held otherwise than as landlord, any reference in those sections to an entitled person is a reference to any of the persons holding such a share.

Commencement Information
I15 S. 13 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

Conversion of conditions to burdens

14 Conversion by nomination of benefited property S

(1) This section applies to a qualifying condition where—
  (a) at least one conversion condition is met, or
  (b) the Lands Tribunal makes an order under section 21.

(2) An entitled person may, before the appointed day, prospectively convert a qualifying condition into a real burden by executing and registering a notice.

(3) The notice must—

(a) be in the prescribed form,

(b) set out the title of the entitled person to enforce the qualifying condition,

(c) identify the qualifying land, or any part of it, which the entitled person nominates as the burdened property in relation to the real burden,

(d) identify the land mentioned in subsection (5), or any part of it, which the entitled person nominates as a benefited property in relation to the burden,

(e) in a case where this section applies by virtue of an order under section 21, state that such an order has been made,

(f) in any other case, specify which of the conversion conditions is (or are) met,

(g) set out the terms of the qualifying condition, and

(h) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the entitled person.

(4) The conversion conditions are—

(a) that the land which would by virtue of this section and sections 15 and 16 become a benefited property has on it a permanent building which is in use wholly or mainly as a place of human—

(i) habitation, or

(ii) resort,

and that building is, at some point, within 100 metres (measuring along a horizontal plane) of the land which would by virtue of this section and sections 15 and 16 become the burdened property,

(b) that the qualifying condition comprises a right of pre-emption or of redemption,

(c) that the land which would by virtue of this section and sections 15 and 16 become a benefited property comprises—

(i) minerals, or

(ii) salmon fishings or some other incorporeal property,

and it is apparent from the terms of the qualifying condition that the condition was included in the lease for the benefit of such land.

(5) The land referred to in subsection (3)(d) 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.

(6) Where the entitled person holds the entitlement to enforce the qualifying condition otherwise than as landlord—

(a) the land referred to in subsection (5)(a) is the land to which the entitlement to enforce the condition attaches, and

(b) the lease referred to in subsection (5)(b) is the lease to which the entitlement to enforce the condition attaches.

Commencement Information

I16 S. 14(1)(2)(3)(b)-(h)(4)-(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I17 S. 14(3)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**
I18 S. 14(3)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

15 Conversion by nomination: registration S

(1) For the purposes of section 14(2), a notice is registered only when registered against both the burdened property and the benefited property.

(2) Registration under subsection (1) must—
- (a) in the case of the burdened property, be against the title of—
  - (i) the owner of the property, or
  - (ii) the tenant under the qualifying lease of the property, and
- (b) in the case of a benefited property, be against the title of—
  - (i) the owner of the property, or
  - (ii) if the property in question is subject to a qualifying lease or exempt lease, the tenant under such lease.

(3) Before submitting any notice for registration under section 14, the entitled person must swear or affirm before a notary public that to the best of the knowledge and belief of the entitled person all the information contained in the notice is true.

(4) For the purposes of subsection (3), if the entitled person is—
- (a) an individual unable by reason of legal disability, or incapacity, to swear or affirm as mentioned in that subsection, then a legal representative of the entitled person may swear or affirm, or
- (b) not an individual, then any person authorised to sign documents on its behalf may swear or affirm,

and any reference in that subsection to an entitled person is to be construed accordingly.

(5) This section and section 14 are subject to sections 36 and 75.

Commencement Information
I19 S. 15 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

16 Conversion by nomination: effect S

(1) This section applies in relation to a qualifying condition where—
- (a) an entitled person registers a notice in accordance with sections 14 and 15, and
- (b) immediately before the appointed day the qualifying condition is still enforceable by the entitled person (or that person's successor).

(2) On the appointed day, the qualifying condition becomes a real burden in relation to which—
- (a) the land identified in pursuance of section 14(3)(c) is the burdened property, and
- (b) the land identified in pursuance of section 14(3)(d) is a benefited property.

Commencement Information

I20 S. 16 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

17 Conversion by agreement S

(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—

(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.

Commencement Information

I21 S. 17(1)-(3)(4)(b)-(f)(5)-(7) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I22 S. 17(4)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I23 S. 17(4)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

18 Conversion by agreement: registration S

(1) For the purposes of section 17(1), an agreement is registered only when registered against both the burdened property and the benefited property.

(2) Registration under subsection (1) must—

(a) in the case of the burdened property, be against the title of—

(i) the owner of the property, or

(ii) the tenant under the qualifying lease of the property, and

(b) in the case of a benefited property, be against the title of—

(i) the owner of the property, or

(ii) if the property in question is subject to a qualifying lease or exempt lease, the tenant under such lease.

Commencement Information

I24 S. 18 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

19 Conversion by agreement: effect S

(1) This section applies in relation to a qualifying condition where—

(a) sections 17(1)(b) and (c) and (6) and 18 are complied with, and

(b) immediately before the appointed day the qualifying condition is still enforceable by the entitled person (or that person's successor).

(2) On the appointed day, the qualifying condition becomes a real burden in relation to which—

(a) the land identified in pursuance of section 17(4)(c) is the burdened property, and

(b) the land identified in pursuance of section 17(4)(d) is a benefited property.

Commencement Information

I25 S. 19 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

20 Conversion by agreement: title not completed S

(1) Subsection (2) applies for the purposes of section 17 where—

(a) the entitled person has not completed title to—

(i) the property by virtue of which such person is entitled to enforce a qualifying condition, or

(ii) the land nominated as a benefited property, and

(b) section 101 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (circumstances where unnecessary to deduce title) does not apply.

(2) The entitled person may enter into an agreement under section 17 only if in the agreement the entitled person deduces title from the person who appears in the Register of Sasines as having the last recorded title to the interest in question.

(3) Subsection (4) applies for the purposes of section 17 where—

(a) the tenant has not completed title to the qualifying lease, and

(b) section 101 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (circumstances where unnecessary to deduce title) does not apply.

(4) The tenant may enter into an agreement under section 17 only if in the agreement the tenant deduces title from the person who appears in the Register of Sasines as having the last recorded title to the interest in question.

Commencement Information

I26 S. 20 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

Applications relating to section 14

21 Lands Tribunal order S

(1) This section applies where an entitled person cannot proceed under section 14(2) because none of the conditions set out in subsection (4) ("the conversion conditions") of that section are met.

(2) The entitled person may apply to the Lands Tribunal for an order under subsection (5).

(3) An application may be made under subsection (2) only if the entitled person has first, in pursuance of section 17, attempted to reach agreement as respects the qualifying condition in question with the tenant under the qualifying lease.

(4) An application under subsection (2)—

(a) must include a description by the entitled person of the requisite attempt to reach agreement, and

(b) must be made not later than 1 year after the day on which this section comes into force.

(5) The Lands Tribunal may make an order dispensing with the need for any of the conversion conditions to be met if satisfied that, were the qualifying condition to be extinguished, there would be material detriment to the value or enjoyment of the entitled person's ownership (taking such person to have ownership) of the land which is to be identified, in pursuance of section 14(3)(d), as a benefited property.

(6) The decision of the Lands Tribunal on an application under subsection (2) is final.

(7) A person opposing an application made under subsection (2) incurs no liability in respect of expenses incurred by the entitled person unless, in the opinion of the Lands Tribunal, the actings of the person opposing are vexatious or frivolous.

Commencement Information
I27 S. 21 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

22 Dealing with application under section 21 S

(1) This section applies where the Lands Tribunal receives an application under section 21.

(2) The Lands Tribunal must give notice of the application, whether by way of advertisement or otherwise, to—
  (a) the tenant under the qualifying lease, and
  (b) if the Lands Tribunal thinks fit, any other person.

(3) Any person (whether or not the person has received notice under subsection (2)) who—
  (a) is a tenant under the qualifying lease, or
  (b) is affected by that qualifying condition or by its proposed constitution as a real burden,

may oppose or make representations in relation to the application.

(4) The Lands Tribunal—
  (a) must allow any such person as is mentioned in subsection (3), and
  (b) may allow any other person who appears to it to be affected by the qualifying condition to which the application relates or its proposed constitution as a real burden,

to be heard in relation to the application.

Commencement Information
I28 S. 22 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

Personal real burdens

23 Conversion to personal pre-emption or redemption burden S

(1) Without prejudice to section 14, the person entitled to enforce a qualifying condition mentioned in subsection (2) (whether as landlord or otherwise) may, before the appointed day, prospectively convert that qualifying condition into a personal pre-emption burden or (as the case may be) into a personal redemption burden by executing and registering a notice.

(2) The qualifying condition referred to in subsection (1) is a condition comprising—
  (a) a right of pre-emption, or
  (b) a right of redemption.

(3) The notice referred to in subsection (1) must—

(a) be in the prescribed form,

(b) set out the title to enforce the qualifying condition of the person executing and registering the notice,

(c) identify the qualifying land (or any part of such land),

(d) set out the terms of the qualifying condition, and

(e) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the person executing and registering the notice.

(4) For the purposes of subsection (1)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (3)(c), and

(b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(5) Before submitting any notice for registration under this section, the person entitled to enforce the qualifying condition must swear or affirm before a notary public that to the best of the knowledge and belief of that person all the information contained in the notice is true.

(6) For the purposes of subsection (5), if the person entitled to enforce the qualifying condition is—

(a) an individual unable by reason of legal disability, or incapacity, to swear or affirm as mentioned in that subsection, then a legal representative of that person may swear or affirm, or

(b) not an individual, then any person authorised to sign documents on its behalf may swear or affirm,

and any reference in that subsection to the person entitled to enforce the qualifying condition is to be construed accordingly.

(7) If subsections (1) to (6) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the person who executed and registered the notice under subsection (1) (or that person's successor) then, on that day—

(a) the qualifying condition is converted into a real burden in favour of that person, to be known as a “personal pre-emption burden” or (as the case may be) as a “personal redemption burden”, and

(b) the land identified in pursuance of subsection (3)(c) becomes the burdened property.

(8) The right to a personal pre-emption burden or personal redemption burden may be assigned or otherwise transferred to any person.

(9) An assignation or transfer under subsection (8) takes effect on registration.

(10) Where the holder of a personal pre-emption burden or personal redemption burden does not have a completed title—

(a) title may be completed by the holder registering a notice of title, or

(b) without completing title, the holder may grant a deed—

(i) assigning the right to the burden, or

(ii) discharging, in whole or in part, the burden.

(11) The holder must, in a deed granted under subsection (10)(b), deduce title from the person who appears in the Register of Sasines as having the last recorded title to the burden in question unless the deed is one to which section 101 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (circumstances where unnecessary to deduce title) applies.

(12) This section is subject to sections 36 and 75.

Commencement Information

I29 S. 23(1)(2)(3)(b)-(e)(4)-(12) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I30 S. 23(3)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I31 S. 23(3)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

24 Conversion to economic development burden S

(1) Where a local authority is, or the Scottish Ministers are, entitled to enforce a qualifying condition which is imposed for the purpose of promoting economic development, it or they may, before the appointed day, prospectively convert that qualifying condition into an economic development burden by executing and registering a notice.

(2) The notice must—

(a) be in the prescribed form,

(b) set out the title to enforce the qualifying condition of the person executing and registering the notice,

(c) state that such person is a local authority or the Scottish Ministers,

(d) identify the qualifying land (or any part of such land),

(e) set out the terms of the qualifying condition,

(f) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the person executing and registering the notice, and

(g) state that the qualifying condition was imposed for the purpose of promoting economic development and provide information in support of that statement.

(3) For the purposes of subsection (1)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (2)(d), and

(b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(4) If subsections (1) to (3) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the local authority or the Scottish Ministers then, on that day, the qualifying condition becomes an economic development burden—

(a) in favour of the local authority or (as the case may be) the Scottish Ministers, and

(b) in relation to which the land identified in pursuance of subsection (2)(d) is the burdened property.

(5) This section is subject to sections 36 and 75.

Commencement Information

I32 S. 24(1)(2)(b)-(g)(3)-(5) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I33 S. 24(2)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I34 S. 24(2)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

25 Conversion to health care burden S

(1) Where the Scottish Ministers are entitled to enforce a qualifying condition which is imposed for the purpose of promoting the provision of facilities for health care, they may, before the appointed day, prospectively convert that qualifying condition into a health care burden by executing and registering a notice.

(2) The notice must—

(a) be in the prescribed form,

(b) set out the title of the Scottish Ministers to enforce the qualifying condition,

(c) identify the qualifying land (or any part of such land),

(d) set out the terms of the qualifying condition,

(e) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the Scottish Ministers, and

(f) state that the qualifying condition was imposed for the purpose of promoting the provision of facilities for health care and provide information in support of that statement.

(3) For the purposes of subsection (1)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (2)(c), and

(b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(4) If subsections (1) to (3) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the Scottish Ministers then, on that day, the qualifying condition becomes a health care burden—

(a) in favour of the Scottish Ministers, and

(b) in relation to which the land identified in pursuance of subsection (2)(c) is the burdened property.

(5) This section is subject to sections 36 and 75.

Commencement Information

I35 S. 25(1)(2)(b)-(g)(3)-(5) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I36 S. 25(2)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I37 S. 25(2)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

26 Conversion to climate change burden S

(1) Where a public body or trust is, or the Scottish Ministers are, entitled to enforce a qualifying condition which is imposed for the purpose of reducing greenhouse gas emissions, it or they may, before the appointed day, prospectively convert that

qualifying condition into a climate change burden by executing and registering a notice.

(2) The notice must—

(a) be in the prescribed form,

(b) set out the title to enforce the qualifying condition of the person executing and registering the notice,

(c) state that such person is a public body, trust or the Scottish Ministers,

(d) identify the qualifying land (or any part of such land),

(e) set out the terms of the qualifying condition,

(f) set out the terms of any counter-obligation to the qualifying condition if it is a counter-obligation enforceable against the person executing and registering the notice, and

(g) state that the qualifying condition was imposed for the purpose of reducing greenhouse gas emissions and provide information in support of that statement.

(3) For the purposes of subsection (1)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (2)(d), and

(b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(4) If subsections (1) to (3) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the public body, trust or the Scottish Ministers then, on that day, the qualifying condition becomes a climate change burden—

(a) in favour of the public body, the trust or (as the case may be) the Scottish Ministers, and

(b) in relation to which the land identified in pursuance of subsection (2)(d) is the burdened property.

(5) In this section—

"emissions" has the meaning given by section 17(1) of the Climate Change (Scotland) Act 2009 (asp 12),

"greenhouse gas" has the meaning given by section 10(1) of that Act,

"public body" means a body listed in Part I or II of the Schedule to the Title Conditions (Scotland) Act 2003 (Conservation Bodies) Order 2003 (SSI 2003/453).

(6) This section is subject to sections 36 and 75.

Commencement Information

I38 S. 26(1)(2)(b)-(g)(3)-(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I39 S. 26(2)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I40 S. 26(2)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

27 Conversion to conservation burden: rule one S

(1) Where a conservation body is, or the Scottish Ministers are, entitled to enforce a qualifying condition of the category described in subsection (2), it or they may, before the appointed day, prospectively convert that qualifying condition into a conservation burden for the benefit of the public by executing and registering a notice.

(2) The category is those qualifying conditions which have the purpose of preserving or protecting—

(a) the architectural or historical characteristics of land, or

(b) any other special characteristics of land (including, without prejudice to the generality of this paragraph, a special characteristic derived from the flora, fauna or general appearance of the land).

(3) The notice referred to in subsection (1) must—

(a) be in the prescribed form,

(b) set out the title to enforce the qualifying condition of the person executing and registering the notice,

(c) state that such person is a conservation body or the Scottish Ministers,

(d) identify the qualifying land (or any part of such land),

(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 person executing and registering the notice.

(4) For the purposes of subsection (1)—

(a) a notice is registered only when registered against the land identified in pursuance of subsection (3)(d), and

(b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(5) If subsections (1) to (4) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the conservation body or the Scottish Ministers then, on that day, the qualifying condition becomes a conservation burden—

(a) in favour of the conservation body or (as the case may be) the Scottish Ministers, and

(b) in relation to which the land identified in pursuance of subsection (3)(d) is the burdened property.

(6) The references in subsection (5) to—

(a) the conservation body include references to—

(i) any conservation body which is, or

(ii) the Scottish Ministers where they are,

its successor as the person entitled to enforce the qualifying condition, and

(b) the Scottish Ministers include references to a conservation body which is their successor as such person.

(7) This section is subject to sections 36 and 75.

Commencement Information

I41 S. 27(1)(2)(b)-(g)(3)-(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I42 S. 27(3)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**
I43 S. 27(3)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

28 Conversion to conservation burden: rule two S

(1) The person (not being a conservation body or the Scottish Ministers) entitled to enforce a qualifying condition of the category described in section 27(2) (whether as landlord or otherwise) may before the appointed day—
  (a) prospectively convert that condition into a conservation burden for the benefit of the public, and
  (b) nominate a conservation body or the Scottish Ministers to have title to enforce that burden,

by executing and registering a notice.

(2) Subsection (1) applies only where the consent of the nominee to being so nominated is obtained—
  (a) in a case where sending a copy of the notice, in compliance with section 75(2), is reasonably practicable, before that copy is so sent, and
  (b) in any other case, before the notice is executed.

(3) The notice referred to in subsection (1) must—
  (a) be in the prescribed form,
  (b) set out the title to enforce the qualifying condition of the person executing and registering the notice,
  (c) state that the nominee is a specific conservation body or the Scottish Ministers (as the case may be), and
  (d) comply with section 27(3)(d) to (f).

(4) For the purposes of subsection (1)—
  (a) a notice is registered only when registered against the land identified in pursuance of subsection (3)(d), and
  (b) the notice may be registered against the title of the owner of the land or of the tenant under the qualifying lease.

(5) If subsections (1) to (4) are complied with and immediately before the appointed day the qualifying condition is still enforceable by the person who executed and registered the notice under subsection (1) (or that person's successor) then, on that day, the qualifying condition becomes a conservation burden—
  (a) in favour of the conservation body or (as the case may be) the Scottish Ministers, and
  (b) in relation to which the land identified in pursuance of subsection (3)(d) is the burdened property.

(6) This section is subject to sections 36 and 75 except that, in the application of subsection (3)(b) of section 36 for the purposes of this subsection, such discharge as is mentioned in that subsection is to be taken to require the consent of the nominated person.

Commencement Information
I44 S. 28(1)(2)(3)(b)-(d)(4)-(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I45 S. 28(3)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**
I46 S. 28(3)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(b)**

Other real burdens

29 Conversion to facility or service burden S

(1) Where a qualifying condition regulates the maintenance, management, reinstatement or use of heritable property which constitutes, and is intended to constitute, a facility of benefit to land other than the qualifying land then, on the appointed day, such condition becomes a facility burden in relation to which—
  (a) the qualifying land is the burdened property, and
  (b) the heritable property which constitutes the facility and any land to which the facility is (and is intended to be) of benefit is the benefited property.

(2) Where a qualifying condition relates to the provision of services to land other than the qualifying land, then the qualifying condition, on the appointed day, becomes a service burden in relation to which—
  (a) the qualifying land is the burdened property, and
  (b) any land to which the services are provided is the benefited property.

(3) Without prejudice to the generality of subsection (1), examples of property which might constitute a facility mentioned in that subsection are—
  (a) a common part of a tenement,
  (b) a common area for recreation,
  (c) a private road,
  (d) private sewerage,
  (e) a boundary wall.

Commencement Information
I47 S. 29 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

30 Conversion to manager burden S

(1) Where a qualifying condition confers on such person as may be specified in the condition power to—
  (a) act as the manager of related properties,
  (b) appoint some other person to be such manager, or
  (c) dismiss any person appointed by virtue of the power mentioned in paragraph (b),

  then, on the appointed day, such condition becomes a real burden in favour of such person and in relation to such burden the qualifying land is the burdened property.

(2) A real burden constituted by virtue of subsection (1) is a manager burden.

(3) For the purposes of subsection (1), whether properties are related properties is to be inferred from all the circumstances.

(4) Without prejudice to the generality of this section, circumstances giving rise to such an inference might include—
  (a) the convenience of managing the properties together because they share—
    (i) some common feature, or
    (ii) an obligation for common maintenance of some facility,
  (b) it being evident that the properties constitute a group of properties on which qualifying conditions are imposed under a common scheme, or
  (c) there being shared rights to common property.

Commencement Information
I48 S. 30 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

31 Conversion where common scheme affects related properties S

(1) Where qualifying conditions are imposed under a common scheme on a group of related properties, such conditions, on the appointed day, become real burdens in relation to which each property is a benefited and a burdened property.

(2) For the purposes of subsection (1), whether properties are related properties is to be inferred from all the circumstances.

(3) Without prejudice to the generality of this section, circumstances giving rise to such an inference might include—
  (a) the convenience of managing the properties together because they share—
    (i) some common feature, or
    (ii) an obligation for common maintenance of some facility,
  (b) there being shared rights to common property,
  (c) the properties being subject to the common scheme by virtue of the same deed of conditions, or
  (d) the properties each being a flat in the same tenement.

(4) This section confers no right of pre-emption, redemption or reversion.

Commencement Information
I49 S. 31 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

32 Conversion where expressly enforceable by certain third parties S

Where a qualifying condition is expressed as being enforceable by—
  (a) the owner, or
  (b) the tenant,
of land other than the qualifying land then, on the appointed day, such condition becomes a real burden in relation to which the qualifying land is the burdened property and that other land is a benefited property.

Commencement Information
I50 S. 32 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

Exclusions from conversion

33 Qualifying condition where obligation assumed by public authority S

Sections 29(1) and 31(1) do not apply to a qualifying condition in so far as such condition constitutes an obligation—

(a) to maintain or reinstate, and

(b) which has been assumed—

(i) by a local or other public authority, or

(ii) by virtue of any enactment, by a successor body to any such authority.

Commencement Information
I51 S. 33 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

Effect of conversion on counter-obligations

34 Counter-obligations on conversion S

(1) Where a qualifying condition becomes, by virtue of any of sections 14 to 32, a real burden, the right to enforce the burden is subject to any counter-obligation mentioned in subsection (2).

(2) The counter-obligations are—

(a) in the case of a real burden constituted by virtue of—

(i) section 14 or 23 to 28, those specified in the notice registered under the section in question,

(ii) section 17, those specified in the agreement,

(iii) section 30, those enforceable against the person on whom power is conferred,

(iv) section 32, those enforceable against the owner or (as the case may be) tenant of the other land, and

(b) in any other case, those enforceable against any person who immediately before the appointed day was entitled to enforce the qualifying condition which was converted into the burden.

Commencement Information
I52 S. 34 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

Prescription

35 Prescriptive period for converted conditions S

(1) This section applies where a qualifying condition becomes, by virtue of any of sections 14 to 32, a real burden.

(2) Section 18(5) of the 2003 Act (prescription where breach of burden occurs before the appointed day) applies to any breach of the qualifying condition as it applies to a breach of a real burden.

Commencement Information
I53 S. 35 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

Notices and agreements under this Part

36 Further provision for notices and agreements S

(1) Subsections (2) and (3) apply in relation to a qualifying lease where—
  (a) an agreement relating to a qualifying condition has been registered under section 17, or
  (b) a notice relating to a qualifying condition has been registered under section 14 or 23 to 28.

(2) It is not competent for the person who registered the agreement or notice (or that person's successor) to register under any of those sections in relation to the qualifying lease another such agreement or notice relating to the same qualifying condition.

(3) Nothing in subsection (2) prevents registration of an agreement or notice where (as the case may be)—
  (a) the discharge of any earlier such agreement has been registered, jointly, by the parties to that agreement (or by their successors), or
  (b) the discharge of any earlier such notice has been registered by the person who registered that notice (or by that person's successor).

(4) Where more than one qualifying lease is affected by the same qualifying condition enforceable by the same person, that person must, if that person wishes to execute and register a notice under this Part in relation to those qualifying leases in respect of that qualifying condition, do so in relation to each separately.

(5) Where a qualifying lease is affected by more than one qualifying condition enforceable by the same person, that person may—
  (a) enter into and register a single agreement under section 17 in relation to that qualifying lease in respect of those qualifying conditions, or
  (b) execute and register a single notice under section 14 or 23 to 28 in relation to that qualifying lease in respect of those qualifying conditions.

(6) Nothing in this Part requires registration against land prospectively nominated as a benefited property but outwith Scotland.

Commencement Information

I54 S. 36 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(c)**

PART 3 S

ALLOCATION OF RENTS AND RENEWAL PREMIUMS ETC.

Key terms

37 Partially continuing leases and renewal obligations etc. S

In this Act—

"partially continuing lease" means a lease which, on the appointed day—

(a) is extinguished by virtue of Part 1, in respect of part of the subjects of the lease (such subjects being referred to in this Act as the "converted subjects"), and

(b) whether by exemption under Part 5 or otherwise, continues in respect of any other subjects (such subjects being referred to in this Act as the "continuing subjects"),

"renewal obligation" means an obligation on the landlord under a lease to renew it after a fixed period on payment by the tenant of a premium,

"renewal period" means, in relation to a renewal obligation, the fixed period after which the landlord must renew the lease,

"renewal premium" means, in relation to a renewal obligation, the premium payable.

Commencement Information

I55 S. 37 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

38 *Cumulo* rent and *cumulo* renewal premium S

(1) In this Act—

"cumulo rent" means, subject to subsection (2), a single rent payable in relation to two or more leases, and

"cumulo renewal premium" means, subject to subsections (2) to (4), a single renewal premium payable in relation to two or more leases.

(2) Where such rent or renewal premium—

(a) has been apportioned between—

(i) those leases, or

(ii) some of those leases, and

(b) the parties to those leases consented (whether expressly or by implication) to the apportionment,

any rent or renewal premium so apportioned is not *cumulo* rent or (as the case may be) not a *cumulo* renewal premium and is the rent or renewal premium payable under the lease for the purposes of this Act.

(3) Subsection (4) applies if—

(a) subsection (2) applies to rent payable under two or more leases, and

(b) a single renewal premium is payable under the leases.

(4) For the purposes of this Act—

(a) the renewal premium is to be treated as if it were apportioned between the leases in the same proportion as the apportionment of rent, and

(b) that apportioned renewal premium is the renewal premium payable under the lease.

Commencement Information

I56 S. 38 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

Allocation of rent

39 Allocation of *cumulo* rent before appointed day S

(1) This section applies where—

(a) a *cumulo* rent is payable in relation to two or more leases, and

(b) one or more of the leases is a qualifying lease.

(2) The landlord may, at any time before the appointed day, allocate the *cumulo* rent between the leases mentioned in subsection (1)(a).

(3) The allocation under subsection (2) must be in such proportions as are reasonable in all the circumstances.

(4) For the purposes of subsection (3), the proportions are presumed to be reasonable in so far as they accord with any apportionment of the *cumulo* rent that was effective immediately before the allocation under (2).

(5) Where the landlord allocates the *cumulo* rent between two or more leases under subsection (2), the annual rent payable under each lease from the day on which the landlord gives notice to the tenant of the allocation is the annual rent allocated to the lease and such rent is not *cumulo* rent for the purposes of this Act.

Commencement Information

I57 S. 39 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

40 Allocation of *cumulo* rent after appointed day S

(1) This section applies where—

(a) immediately before the appointed day, a *cumulo* rent was payable in relation to two or more leases, and

(b) on that day, one or more of the leases is extinguished by virtue of Part 1 in respect of any subjects of the leases.

(2) The landlord must, before the expiry of the period of 2 years beginning with the appointed day, allocate the *cumulo* rent between the leases mentioned in subsection (1)(a).

(3) The allocation under subsection (2) must be in such proportions as are reasonable in all the circumstances.

(4) For the purposes of subsection (3), the proportions are presumed to be reasonable in so far as they accord with any apportionment of the *cumulo* rent that was effective immediately before the appointed day.

(5) The annual rent payable from the appointed day under a lease which is not wholly extinguished by virtue of Part 1 is (subject to section 41) the annual rent allocated to the lease under subsection (2).

(6) In this section and sections 41, 42 and 43, "landlord" includes former landlord.

Commencement Information

I58 S. 40 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

41 Partially continuing leases: allocation of rent S

(1) The landlord in relation to a partially continuing lease must, before the expiry of the period of 2 years beginning with the appointed day, allocate the annual rent between the converted subjects and continuing subjects.

(2) In subsection (1), the annual rent is—

(a) the annual rent payable under the lease immediately before the appointed day, or

(b) where a *cumulo* rent is allocated to the lease under section 40(2), the annual rent so allocated.

(3) The allocation under subsection (1) must be in such proportions as are reasonable in all the circumstances.

(4) The annual rent payable from the appointed day under the partially continuing lease is the annual rent allocated to the continuing subjects under subsection (1).

Commencement Information

I59 S. 41 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

Allocation of renewal premium

42 Allocation of *cumulo* renewal premium S

(1) This section applies where—

(a) immediately before the appointed day, the renewal premium payable in relation to two or more leases containing a renewal obligation was a *cumulo* renewal premium,

(b) on that day, one or more of the leases is extinguished by virtue of Part 1 in respect of any subjects of the leases, and

(c) a lease mentioned in paragraph (b) complies with section 1(3)(b) and (c) by virtue of section 71(1)(b).

(2) The landlord must, before the expiry of the period of 2 years beginning with the appointed day, allocate the *cumulo* renewal premium between the leases mentioned in subsection (1)(a).

(3) The allocation under subsection (2) must be in such proportions as are reasonable in all the circumstances.

(4) For the purposes of subsection (3)—

(a) the proportions are presumed to be reasonable in so far as they accord with any apportionment of the *cumulo* renewal premium that was effective immediately before the appointed day,

(b) where there is no such apportionment, the proportions are presumed to be reasonable in so far as they accord with any allocation of rent under section 40.

(5) The renewal premium payable from the appointed day under a lease which is not wholly extinguished by virtue of Part 1 is (subject to section 43) the renewal premium allocated to the lease under subsection (2).

Commencement Information

I60 S. 42 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

43 Partially continuing leases: allocation of renewal premium S

(1) This section applies to a lease which—

(a) contains a renewal obligation,

(b) complies with section 1(3)(b) and (c) by virtue of section 71(1)(b), and

(c) is a partially continuing lease.

(2) The landlord must, before the expiry of the period of 2 years beginning with the appointed day, allocate the renewal premium between the converted subjects and continuing subjects.

(3) For the purposes of subsection (2), the renewal premium is—

(a) the renewal premium payable under the lease immediately before the appointed day, or

(b) where a *cumulo* renewal premium is allocated to the lease under section 42(2), the premium so allocated.

(4) The allocation under subsection (2) must be in such proportions as are reasonable in all the circumstances.

(5) For the purposes of subsection (4), the proportions are presumed to be reasonable in so far as they accord with any allocation of rent under section 41.

(6) The renewal premium payable from the appointed day under the partially continuing lease is the renewal premium allocated to the continuing subjects under subsection (2).

Commencement Information

I61 S. 43 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

Allocation disputed or not made

44 Allocation disputed or not made: reference to Lands Tribunal S

(1) This section applies where—

(a) a tenant under a lease referred to in section 39(1)(a) disputes the allocation made under section 39(2),

(b) a tenant under a lease referred to in section 40(5) disputes the allocation made under section 40(2),

(c) a tenant under a lease referred to in section 42(5) disputes the allocation made under section 42(2),

(d) a tenant under a partially continuing lease disputes the allocation made under section 41(1) or section 43(2),

(e) a landlord under a lease referred to in section 40(5) or 42(5) does not, within the period of 2 years beginning with the appointed day, give notice to a tenant of an allocation under section 40(2) or 42(2), or

(f) a landlord under a partially continuing lease does not, within the period of 2 years beginning with the appointed day, give notice to a tenant of—

(i) an allocation under section 41(1), or

(ii) where section 43 applies to the lease, an allocation under subsection (2) of that section.

(2) The tenant may apply to the Lands Tribunal for an order—

(a) where this section applies by virtue of subsection (1)(a), fixing the annual rent payable under the lease from the day the landlord gave notice to the tenant of the allocation,

(b) in any other case, fixing the annual rent or (as the case may be) the renewal premium payable under the lease from the appointed day.

(3) Where this section applies by virtue of subsection (1)(a) to (d), an application under subsection (2) must be made before the expiry of the period of 56 days beginning with the day on which the landlord gives notice to the tenant of the allocation.

Commencement Information

I62 S. 44 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(c)**

PART 4 S

COMPENSATION FOR LOSS OF LANDLORD'S RIGHTS

Compensatory payment

45 Requiring compensatory payment S

(1) This section applies where, on the appointed day, the rights of a landlord under a lease are extinguished by virtue of Part 1.

(2) The former landlord under such a lease may serve on the former tenant a notice in the prescribed form requiring that a compensatory payment be made to the former landlord by the former tenant.

(3) The compensatory payment must be—
- (a) calculated in accordance with section 47, and
- (b) specified in the notice.

(4) A notice served under subsection (2) must be—
- (a) served before the expiry of the period of 2 years beginning with the appointed day, and
- (b) accompanied by a copy of the prescribed explanatory note.

(5) Where the compensatory payment required is equal to or greater than £50, the former landlord must, together with the notice served under subsection (2), serve on the former tenant an instalment document.

(6) This section is subject to section 56.

(7) In this Act—

"compensatory payment" means a payment of the kind mentioned in subsection (2),

"instalment document" is to be construed in accordance with section 57(2).

Commencement Information

I63 S. 45 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

46 Making compensatory payment S

(1) This section applies where the former landlord has served notice in accordance with section 45.

(2) The former tenant must, before the expiry of the period of 56 days beginning with the day on which the notice is served, make the compensatory payment to the former landlord.

(3) Subsection (2) is subject to section 57.

Commencement Information

I64 S. 46 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

Calculation of compensatory payment

47 Calculation of the compensatory payment S

The compensatory payment in relation to a lease is calculated as follows—

Step 1

Determine the annual rent (AR) in accordance with section 48.

Step 2

Calculate the notional annual renewal premium (NARP) (if any) in accordance with section 49.

Step 3

Calculate the annual income (AI) according to the following formula—

$$AI = AR + NARP$$

.

Step 4

Calculate the sum of money which would, if invested in 2.5 per cent Consolidated Stock at the middle market price at the close of business last preceding the appointed day, produce an annual sum equal to AI.

The sum calculated is the compensatory payment.

Commencement Information

I65 S. 47 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

Annual rent

48 Determination of the annual rent S

(1) For the purposes of section 47, the annual rent in relation to a lease is—

(a) where the lease is not a partially continuing lease and the rent payable immediately before the appointed day was a *cumulo* rent, the annual rent allocated to the lease under section 40,

(b) where the lease is a partially continuing lease, the annual rent allocated to the converted subjects under section 41,

(c) in any other case, the annual rent payable under the lease.

(2) Any rent payable under the lease which is expressed wholly or partly in non-monetary terms is, to the extent that it is so expressed, to be left out of account.

(3) Any rent payable under the lease which is variable from year to year is, to the extent that it is so variable, to be left out of account.

Commencement Information
I66 S. 48 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

Renewal premiums

49 Calculation of notional annual renewal premium S

(1) This section applies where—
- (a) a lease contains a renewal obligation,
- (b) the renewal premium (determined in accordance with subsection (3)) next payable on or after the appointed day is less than or equal to £100, and
- (c) the lease complies with section 1(3)(b) and (c) by virtue of section 71(1)(b).

(2) For the purpose of section 47, the notional annual renewal premium is calculated according to the following formula—

$$\mathrm{NARP} = \frac{\mathrm{RP}}{Y}$$

where—

NARP is the notional annual renewal premium,

RP is the renewal premium (determined in accordance with subsection (3)) next payable on or after the appointed day,

Y is the renewal period (expressed as a number of years).

(3) The renewal premium is—
- (a) where the lease is not a partially continuing lease and the renewal premium payable immediately before the appointed day was a *cumulo* renewal premium, the renewal premium allocated to the lease under section 42,
- (b) where the lease is a partially continuing lease, the renewal premium allocated to the converted subjects under section 43,
- (c) in any other case, the renewal premium payable under the lease.

Commencement Information
I67 S. 49 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

Additional payment

50 Claiming additional payment S

(1) This section applies where, on the appointed day, a right of a landlord under a lease, being a right mentioned in section 51(1), is extinguished by virtue of Part 1.

(2) The former landlord under the lease may serve on the former tenant a notice claiming that a payment, calculated in accordance with section 52, be made to the former landlord by the former tenant in respect of the extinction of the right (such payment being referred to in this Act as an "additional payment").

(3) Where—

(a) the lease mentioned in subsection (1) is a superior lease, and

(b) the extinguished right is a right referred to in section 51(1)(e) to (g),

references to the "former tenant" in subsection (2) and sections 52 to 55 and 57 to 59 are to be construed as references to the former tenant under the qualifying lease.

(4) The notice served under subsection (2) must—

(a) be served before the expiry of the period of 2 years beginning with the appointed day,

(b) be in the prescribed form,

(c) be accompanied by a copy of the prescribed explanatory note,

(d) set out the right which has been extinguished and in respect of which the claim is made,

(e) specify the amount of additional payment claimed and the basis on which the amount is calculated, and

(f) where the claim is in respect of a right to development value, set out the basis on which the development value is reserved under the lease.

(5) Where the additional payment claimed is equal to or greater than £50, the former landlord must, together with the notice served under subsection (2), serve on the former tenant an instalment document.

(6) This section is subject to section 56.

Commencement Information

I68 S. 50 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

51 Extinguished rights S

(1) The rights referred to in section 50(1) are—

(a) any right to a rent to the extent that such right is expressed wholly or partly in non-monetary terms,

(b) any right to have the amount payable as rent reviewed or increased from time to time,

(c) any right to a rent to the extent that the amount payable is variable from year to year,

(d) any right to receive a premium (other than a renewal premium which satisfies the condition in section 49(1)(b)) in return for renewing the lease after a fixed

period, where, by virtue of section 71(1)(b) such a renewal is required in order for the lease to comply with section 1(3)(b) and (c),

(e) any right to resume natural possession of the land subject to a lease upon expiry of the lease, provided that the lease would expire no later than the end of the period of 200 years beginning with the appointed day,

(f) any right, other than a right of pre-emption, enabling a lease to be terminated earlier than the date on which the lease would otherwise expire, providing that such right—

(i) is exercisable no later than the end of the period of 200 years beginning with the appointed day,

(ii) is not a provision of the lease purporting to terminate the lease, or entitling the landlord to terminate it, in the event of a failure of the tenant to comply with any provision of the lease,

(iii) is not a provision of the lease deeming such a failure to be a material breach of contract, and

(iv) does not become a real burden by virtue of section 16, 19 or 23, and

(g) any right to development value, providing that such right does not become a real burden by virtue of section 16 or 19.

(2) In this Part—

"development value" means any significant increase in the value of a lease arising as a result of the subjects of the lease becoming free to be used, or dealt with, in some way not permitted under the lease, and

any reference to a "right to development value" means a right to the benefit of any development value of a lease where—

(a) the lease was granted subject to a condition, enforceable by the landlord, reserving to the landlord the benefit (whether wholly or in part) of any development value, and

(b) the consideration (including rent) paid for, or payable under, the lease was—

(i) nominal, or

(ii) significantly lower than it would have been had the lease not been subject to the condition.

Commencement Information

I69 S. 51 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

52 Calculating additional payment S

(1) This section applies for the purpose of calculating the amount of an additional payment.

(2) The extinguished right mentioned in section 51(1) is to be valued as at the appointed day.

(3) In the case of a claim for an additional payment arising from the extinction of the right mentioned in section 51(1)(e), the value mentioned in subsection (2) must represent the value which the right could reasonably be expected to obtain if sold on the open market by a willing seller to a willing buyer.

(4) For the purposes of subsection (3)—

(a) it is to be presumed that the lease will continue until the expiry of the period for which it was granted, and

(b) no account should be taken of—

(i) any factor attributable to the known existence of a person (including the former tenant) who would be willing to buy the right at a price higher than other persons because of a characteristic of the right which relates peculiarly to that person's interest in buying it, and

(ii) any depreciation in the value of any other land owned by the former landlord.

(5) Any obligations of the former landlord arising from the lease which are, on the appointed day, extinguished by virtue of Part 1 must be taken into account.

(6) But no account is to be taken of any such obligation in so far as it is preserved as a counter-obligation to a real burden.

(7) Any other entitlement (including under this Act) of the former landlord to recover any loss for which the additional payment is claimed must be taken into account.

(8) In the case of a claim for an additional payment arising from the extinction of a right to development value, the additional payment may not exceed such sum as would make up for any effect which the right produced, at the time when the condition reserving the right was imposed, in reducing the consideration (including rent) paid for or payable under the lease.

Commencement Information

I70 S. 52 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

53 Additional payment: former tenant agrees S

(1) This section applies where—

(a) a former landlord has served on the former tenant a notice in accordance with section 50, and

(b) the former tenant agrees to make the additional payment specified in the notice to the former landlord.

(2) The former tenant must, before the expiry of the period of 56 days beginning with the day on which the notice is served, make the additional payment to the former landlord.

(3) Subsection (2) is subject to section 57.

Commencement Information

I71 S. 53 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

54 Additional payment: amount mutually agreed S

(1) This section applies where—

(a) a former landlord has served on the former tenant a notice in accordance with section 50(2), and

(b) the former tenant and the former landlord agree the amount of the additional payment, being an amount other than that specified in the notice.

(2) The former landlord may, before the expiry of the period of 5 years beginning with the appointed day, serve on the former tenant a notice requiring that the agreed additional payment be made to the former landlord by the former tenant.

(3) The notice referred to in subsection (2) must—

(a) specify the agreed additional payment,

(b) be in the prescribed form, and

(c) be accompanied by a copy of the prescribed explanatory note.

(4) Where the agreed additional payment is equal to or greater than £50, the former landlord must, together with the notice served under subsection (2), serve an instalment document on the former tenant.

(5) The former tenant must, before the expiry of the period of 28 days beginning with the day on which the notice is served under subsection (2), make the additional payment to the former landlord.

(6) Subsection (5) is subject to section 57.

Commencement Information

I72 S. 54 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

55 Claim for additional payment: reference to Lands Tribunal S

(1) If no agreement has been reached under section 53 or 54, the—

(a) former landlord, or

(b) former tenant,

may refer any matter arising in relation to a claim for an additional payment under section 50 to the Lands Tribunal.

(2) In determining any such matter, the Lands Tribunal may make such order as it thinks fit (including an order fixing the amount of additional payment).

(3) Where the Lands Tribunal makes an order fixing an additional payment which is equal to or greater than £50 it must provide the former tenant with the option of making the payment in instalments in accordance with section 57 but—

(a) no instalment document is required,

(b) in subsection (3)(b) of that section, for the words "when so returning such document" there is to be substituted " before the expiry of the period of 28 days beginning with the day on which the Lands Tribunal makes the order fixing the additional payment ", and

(c) the reference in subsection (4) of that section to the date on which the instalment document is served is to be construed as a reference to the date on which the Lands Tribunal makes the order.

(4) A reference under subsection (1) must be made before the expiry of the period of 5 years beginning with the appointed day.

Commencement Information

I73 S. 55 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(d)**

Supplementary

56 Claims in excess of £500: preliminary notice S

(1) This section applies where a landlord intends, after the appointed day, to require or (as the case may be) claim from the tenant under a qualifying lease—

(a) a compensatory payment which is,

(b) an additional payment which is, or

(c) two or more additional payments which, taken together, are,

likely to exceed £500.

(2) The landlord must, not later than 6 months before the appointed day, serve on the person registered as tenant a notice (such notice being referred to in this Act as a "preliminary notice") stating the landlord's intention to require or (as the case may be) claim such a payment.

(3) The preliminary notice must—

(a) be in the prescribed form,

(b) state—

(i) the amount of compensatory payment to be required or (as the case may be) additional payment to be claimed, or

(ii) where such amount cannot be determined, the best estimate of such amount, and

(c) be accompanied by a copy of the prescribed explanatory note.

(4) Where a preliminary notice has not been served in accordance with this section—

(a) the amount of compensatory payment required under section 45(2),

(b) the amount of additional payment claimed under section 50(2), or

(c) where two or more additional payments are claimed, the total amount of such payments,

may not exceed £500.

Commencement Information

I74 S. 56(1)(2)(3)(b)(4) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(d)**

I75 S. 56(3)(a)(c) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I76 S. 56(3)(a)(c) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(d)**

57 Making payment by instalments S

(1) This section applies where an instalment document under section 45(5), 50(5) or 54(4) is served on a former tenant.

(2) An instalment document must be—

(a) a filled out document in the prescribed form, and

(b) accompanied by a copy of the prescribed explanatory note.

(3) Subject to subsection (4), the former tenant obtains the option of making the compensatory or (as the case may be) additional payment by instalments only if—

(a) the former tenant signs, dates and returns the instalment document within the period which (but for this section) is allowed for making that payment—

(i) in the case of a compensatory payment, under section 46, or

(ii) in the case of an additional payment, under section 53(2) or (as the case may be) 54(5), and

(b) when so returning such document, the former tenant pays to the former landlord an amount equivalent to one tenth of the payment (such amount being payable in addition to the payment and irrespective of how or when such payment is subsequently made).

(4) If on or after the date on which an instalment document is served on the former tenant under a qualifying lease the former tenant ceases, by virtue of a sale or transfer for valuable consideration, to have right to the land in respect of which the claim for payment has been made or any part of that land then—

(a) where the former tenant has obtained the option mentioned in subsection (3), the former tenant loses that option and the outstanding balance of the entire payment falls due on the seventh day after the day on which the former tenant ceases to have that right, and

(b) where the former tenant has not obtained that option, the former tenant loses the right to obtain it and the following apply accordingly—

(i) in the case of a compensatory payment, section 46(2), or

(ii) in the case of an additional payment, section 53(2) or (as the case may be) 54(5).

(5) Subsections (6) to (8) apply where the option of making the payment by instalments is obtained.

(6) The instalments are to be equal instalments payable on the term days of Whitsunday and Martinmas which follow the making of the payment under subsection (3)(b).

(7) The number of instalments is set out in the following table—

Amount of compensatory or additional payment	***Number of instalments***
£50 or more than £50 but no more than £500	5
More than £500 but no more than £1,000	10
More than £1,000 but no more than £1,500	15
More than £1,500	20

(8) In a case where any instalment payable by virtue of subsections (6) and (7) remains unpaid for 42 days after falling due, the outstanding balance of the entire payment immediately falls due.

(9) In any other case, the former tenant may pay that outstanding balance at any time.

Commencement Information
I77 S. 57 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

58 Collecting third party to disclose information S

(1) This section applies where a landlord or (as the case may be) former landlord receives or has at any time received from a third party an amount—
  (a) collected in respect of rent from, and
  (b) remitted to the landlord or former landlord on behalf of,
  a tenant or (as the case may be) former tenant.

(2) The third party must—
  (a) if required by the landlord or (as the case may be) former landlord for the purpose of serving notice under section 45(2),
  (b) in so far as it is practicable, and
  (c) as soon as is reasonably practicable,
  disclose to the landlord or former landlord the information mentioned in subsection (3).

(3) The information referred to in subsection (2) is—
  (a) the identity and address of the tenant or former tenant, and
  (b) in a case where the rent remitted is part of a *cumulo* rent, the amount so collected from the tenant or former tenant.

Commencement Information
I78 S. 58 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

59 Duty to disclose identity etc. of former tenant S

(1) This section applies where—
  (a) a former landlord purports to serve notice under section 45(2) or 50(2) on the former tenant, and
  (b) the person on whom that notice is served—
    (i) was the tenant at some time before the appointed day, but
    (ii) is not the former tenant.

(2) The person on whom the notice is served must as soon as is reasonably practicable disclose to the former landlord—
  (a) the identity and address of the former tenant, or
  (b) (if that person cannot do so) such other information as that person has which might enable the former landlord to discover that identity and address.

Commencement Information
I79 S. 59 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

60 Prescription of requirement to make payment S

In Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 (c.52) (which specifies obligations affected by prescriptive periods of 5 years under section 6 of that Act)—

(a) in paragraph 1, after sub-paragraph (ac) there is inserted—

"(aca) to any obligation to make a payment under section 46, 53(2) or 54(5) of the Long Leases (Scotland) Act 2012 (asp 9),", and

(b) in paragraph 2(e), for the words ", (aa), (ab) or (ac)" substitute " to (aca) ".

Commencement Information

I80 S. 60 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

61 Interpretation of Part 4 S

(1) In this Part—

"former landlord", in relation to a lease, means the person who was the landlord immediately before the appointed day, and

"former tenant", in relation to a lease, means the person who was the tenant immediately before the appointed day.

(2) Where, immediately before the appointed day, the right as tenant under a lease is held by two or more persons in common—

(a) they are—

(i) severally liable to make any compensatory or (as the case may be) additional payment,

(ii) as between themselves, liable in the proportions in which they hold the right as tenant, and

(b) subject to section 74, they are together to be treated for the purposes of this Part as being a single tenant.

Commencement Information

I81 S. 61 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

PART 5 S

EXEMPTION FROM CONVERSION AND CONTINUING LEASES

Exempt leases

62 Exempt leases S

(1) If, immediately before the appointed day, land is subject to an exempt lease—

(a) that lease does not become the right of ownership of the land,

(b) any right of ownership of that land existing immediately before the appointed day and any superior lease is not extinguished, and

(c) the provisions of this Act, in so far as they relate to—

(i) the conversion of a qualifying lease into the right of ownership, or

(ii) the extinction of a right of ownership or (as the case may be) lease,

do not apply.

(2) In this Part, "exempt lease" is to be construed in accordance with sections 63 to 66.

Commencement Information

I82 S. 62 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(e)**

Types of exempt lease

63 Exemption of qualifying lease by registration of notice S

A lease is an exempt lease if—

(a) it is a qualifying lease, and

(b) the tenant under the lease, not later than 2 months before the appointed day, executes and registers a notice in the prescribed form (referred to in this Act as an "exemption notice").

Commencement Information

I83 S. 63(a) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(e)**

I84 S. 63(b) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I85 S. 63(b) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(e)**

64 Exemption of qualifying lease by registration of agreement or order S

(1) A lease is an exempt lease if—

(a) it is a qualifying lease,

(b) it is not a lease in relation to which *cumulo* rent is payable, and

(c) the landlord, not later than 2 months before the appointed day, registers against the title of the tenant—

(i) an agreement entered into with the tenant, or

(ii) an order made by the Lands Tribunal under section 69.

(2) The agreement must—

(a) be in the prescribed form,

(b) be signed by or on behalf of the landlord and the tenant,

(c) state either—

(i) that the annual rent payable under the lease immediately before the appointed day will be over £100, or

(ii) that the annual rent paid under the lease was over £100 at any point during the relevant period.

(3) The relevant period is the period of 5 years ending on the day the Bill for this Act received Royal Assent.

Commencement Information

I86 S. 64(1)(2)(b)(2)(c)(3) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(e)**

I87 S. 64(2)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I88 S. 64(2)(a) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(e)**

65 Certain leases registered near or after the appointed day S

A lease is an exempt lease if—

(a) it is not registered on the day falling 1 year before the appointed day,

(b) it would, had it been so registered, have been converted on the appointed day into a right of ownership under section 4(1)(a),

(c) despite not being registered, it constitutes a real right in land, and

(d) it is subsequently registered (whether before, on or after the appointed day).

Commencement Information

I89 S. 65 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(f)**

66 Subleases of exempt leases S

A sublease of an exempt lease is an exempt lease if—

(a) it would have been converted on the appointed day into a right of ownership under section 4(1)(a), had the sublease been registered immediately before the appointed day, and

(b) it is registered (before, on or after the appointed day).

Commencement Information

I90 S. 66 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(f)**

Recall of exemption

67 Recall of exemption S

(1) This section applies in relation to a lease where—

(a) the lease is an exempt lease (other than by virtue of section 64), and

(b) the tenant under the lease executes and registers a notice in the prescribed form (referred to in this Act as a "recall notice").

(2) On the day on which the recall notice is registered ("the registration day") the lease ceases to be an exempt lease.

(3) Where the registration day—

(a) is less than 6 months before the appointed day,

(b) is the appointed day, or

(c) is after the appointed day,

this Act applies as if the appointed day were the first Whitsunday or (as the case may be) Martinmas occurring on or after the day which falls 6 months after the registration day.

(4) Section 56 does not apply in relation to the lease.

Commencement Information

I91 S. 67(1)(a)(2)-(4) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(f)**

I92 S. 67(1)(b) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I93 S. 67(1)(b) in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(f)**

Supplementary

68 Exemption and recall notices: supplementary S

(1) Subsections (2) and (3) apply to a tenant under a lease where—

(a) the lease is a qualifying lease and the tenant intends to execute and register an exemption notice, or

(b) the lease is an exempt lease and the tenant intends to execute and register a recall notice.

(2) Except where it is not reasonably practicable to do so, the tenant must, before the notice is executed, send by post to the person registered as landlord under the lease and (as the case may be) the person registered as landlord under any superior lease a copy of—

(a) the notice, and

(b) the prescribed explanatory note.

(3) Before the notice is executed, the tenant must state in the notice either—

(a) that a copy of the notice has been sent in accordance with subsection (2), or

(b) that it was not reasonably practicable for such a copy to be sent (and the reasons why that was so).

(4) An exemption notice or (as the case may be) recall notice must be registered against the title of the tenant who executed the notice.

Commencement Information

I94 S. 68 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(g)**

69 Application to Lands Tribunal for order confirming rent S

(1) A landlord under a lease may apply to the Lands Tribunal for an order confirming either—

(a) that the annual rent payable under the lease immediately before the appointed day will be over £100, or

(b) that the annual rent paid under the lease was over £100 at any point during the relevant period.

(2) The relevant period is the period of 5 years ending on the day the Bill for this Act received Royal Assent.

(3) An application may be made under subsection (1) only if the landlord has first attempted to reach agreement as respects the annual rent with the tenant under the lease.

(4) The application—

(a) must include a description by the landlord of the requisite attempt to reach agreement, and

(b) must be made not later than 1 year after the day on which this section comes into force.

(5) The Lands Tribunal must give notice of the application, whether by way of advertisement or otherwise, to the tenant.

(6) The tenant may oppose or make representations in relation to the application.

(7) The Land Tribunal must allow the tenant to be heard in relation to the application.

(8) The decision of the Lands Tribunal on an application under subsection (1) is final.

(9) A tenant opposing an application made under subsection (1) incurs no liability in respect of expenses incurred by the landlord unless, in the opinion of the Lands Tribunal, the actings of the tenant are vexatious or frivolous.

Commencement Information

I95 S. 69 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(g)**

PART 6 S

GENERAL AND MISCELLANEOUS

The appointed day

70 The appointed day S

In this Act, the "appointed day" means the first Martinmas occurring on or after the day 2 years after the day on which this section comes into force.

Commencement Information

I96 S. 70 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(h)**

Duration of lease etc.

71 Determining duration of lease S

(1) In calculating the period for which a lease is granted for the purposes of any provision of this Act—

(a) any provision of a lease (however expressed) enabling the lease to be terminated earlier than the date on which it would otherwise terminate must be disregarded,

(b) where a lease includes provision (however expressed) requiring the landlord to renew the lease, the period for which any such renewed lease would, were that provision complied with, be granted must be added to the period for which the original lease is granted,

(c) where the period for which a lease is granted is expressed (in whole or in part) by reference to the lifetime of a person, the period expressed by reference to that lifetime is—

(i) in a case where such person is deceased and the period beginning on the first day of the period for which the lease was granted and ending on the day that person died can be ascertained, that period,

(ii) in a case where such person is identifiable and is not deceased, deemed to be the period of life expectancy as calculated in accordance with the table of life expectancy set out in regulations made by the Scottish Ministers, or

(iii) in any other case, deemed to be a period of 35 years, and

(d) where, before the end of the period for which a lease is granted, the parties to that lease enter into a subsequent lease—

(i) of the same subjects as the original lease, and

(ii) for a period beginning immediately after the end of the period for which such lease is granted,

the period for which the subsequent lease is granted must be added to the period for which the original lease is granted.

(2) Subsection (1)(b) to (d) is subject to section 67 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) (prohibition of leases of more than 175 years).

Commencement Information

I97 S. 71 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(h)**

72 Leases continuing on tacit relocation S

Part 4 and section 71(1)(b) apply in relation to a lease which is continuing by tacit relocation as if any provision (however expressed)—

(a) included in the lease prior to it so continuing, and

(b) requiring the landlord to renew the lease,

had been complied with.

Commencement Information
I98 S. 72 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(h)**

Extinction of right of irritancy in certain leases

73 Extinction of right of irritancy in certain leases S

(1) On and after the day on which this section comes into force, it is not competent for a lease to which subsection (2) applies to be terminated by irritancy.

(2) This subsection applies to a lease which, immediately before the day on which this section comes into force, is a right of lease in land which—
  (a) complies with section 1(3), or
  (b) had it been registered, would comply with that section.

(3) But subsection (2) does not apply to a lease which, on the day this section comes into force, is an exempt lease by virtue of section 64.

(4) Any proceedings already commenced to enforce any right of irritancy in relation to a lease to which subsection (2) applies are deemed to be abandoned on the day on which this section comes into force and may, without further process and without any requirement that full judicial expenses be paid by the pursuer, be dismissed accordingly.

(5) Subsection (4) does not affect any cause in which final decree (that is to say, any decree or interlocutor which disposes of the cause and is not subject to appeal or review) is granted before the coming into force of this section.

Commencement Information
I99 S. 73 in force at 28.9.2015 by S.S.I. 2013/322, **art. 5**

Notices etc.

74 Service of notices S

(1) Service of a notice on a person under section 17(1)(a) or Part 4 must be effected—
  (a) by delivering it to the person,
  (b) by sending it to the person at a place mentioned in subsection (2)—
    (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000 (c.26)), or
    (ii) by a postal service which provides for the delivery of the notice to be recorded,
  (c) in a case where a notice sent under paragraph (b) is returned to the person who sent it with an intimation that it could not be delivered—
    (i) by delivering it, or
    (ii) by sending it by post,
  with that intimation to the Extractor of the Court of Session.

(2) The place referred to in subsection (1)(b) is—

(a) the person's place of residence,

(b) the person's place of business,

(c) a postal address which the person ordinarily uses, or

(d) if none of those places or that address is known at the time of delivery or posting, whatever place is at that time the person's most recently known—

(i) place of residence,

(ii) place of business, or

(iii) postal address which the person ordinarily used.

(3) For the purposes of this Act, any of the following is sufficient evidence of service of the notice—

(a) an acknowledgement in the prescribed form signed by the person on whom the notice is served,

(b) in the case of a notice sent under subsection (1)(b), a certificate in the prescribed form signed by the sender of the notice and accompanied by the postal receipt,

(c) in the case of a notice delivered or sent under subsection (1)(c), an acknowledgement of receipt by the Extractor on a copy of the notice.

(4) The date on which a notice is served on a person is the date of delivery or (as the case may be) posting of the notice.

(5) In this section, "notice" includes an instalment document.

Commencement Information

I100 S. 74 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(i)**

75 Notices: pre-registration requirements S

(1) This section applies in relation to any notice which is to be submitted for registration under section 8 or Part 2.

(2) Except where it is not reasonably practicable to do so, the person who intends to execute the notice must, before so doing, send by post to the tenant under the qualifying lease (addressed to "The Tenant" where the name of that person is not known) a copy of—

(a) the notice, and

(b) the prescribed explanatory note relating to the notice.

(3) The person who executes the notice must, in the notice, state either—

(a) that a copy of the notice has been sent in accordance with subsection (2), or

(b) that it was not reasonably practicable for such a copy to be sent (and the reasons why that was so).

Commencement Information

I101 S. 75 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(i)**

76 Keeper's duty as regards documents S

(1) In relation to any notice submitted for registration under this Act, the Keeper is not required to determine whether the terms of section 68(2) or (as the case may be) 75(2) have been complied with.

(2) In relation to any notice or (as the case may be) agreement submitted for registration under—

(a) section 14, 17, 23, 24, 25, 26, 27 or 28, the Keeper is not required to determine whether, for the purposes of registering the notice or agreement, a qualifying condition is enforceable by the person submitting the notice or agreement for registration,

(b) section 14, the Keeper is not required to determine—

(i) in pursuance of subsection (3)(e) of that section, that an attempt to reach agreement has been made in accordance with section 21(3), or

(ii) where the condition specified under subsection (3)(f) of that section is the condition mentioned in subsection (4)(a) of that section, whether the terms of that condition are satisfied,

(c) section 17, the Keeper is not required to determine whether the requirements of section 17(1)(a) are satisfied, or

(d) section 24 to 26, the Keeper is not required to determine whether—

(i) for the purposes of subsection (1) of the section in question, a qualifying condition is imposed for the reasons mentioned in that subsection, or

(ii) the statement made in pursuance of section 24(2)(g), 25(2)(f) or (as the case may be) 26(2)(g) is correct.

(3) The Keeper is not required to determine for the purposes of section 8(7) whether immediately before the appointed day a sporting right is still enforceable.

(4) The Keeper is not required to determine for the purposes of section 16, 19, 23(7), 24(4), 25(4), 26(4), 27(5) or 28(5) whether immediately before the appointed day a qualifying condition is, or is still, enforceable, or by whom.

(5) In relation to any order submitted for registration under section 64(1)(c)(ii), the Keeper is not required to determine that an attempt to reach agreement has been made in accordance with section 69(3).

Commencement Information

I102 S. 76 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(i)**

77 Disputed notices: reference to Lands Tribunal S

(1) A dispute arising in relation to a notice registered under this Act may be referred to the Lands Tribunal.

(2) In determining the dispute, the Lands Tribunal may make such order as it thinks fit discharging or, to such extent as may be specified in the order, restricting the notice in question.

(3) An order under subsection (2) has effect in respect of a third party when an extract of the order is registered.

Commencement Information

I103 S. 77 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(h)**

78 Certain documents registrable despite initial rejection S

(1) This section applies where one of the following is rejected by the Keeper—

(a) a notice submitted before the appointed day for registration under section 8(2) or Part 2,

(b) an agreement submitted before the appointed day for registration under section 17(1)(c),

(c) an exemption notice submitted before the day falling 2 months before the appointed day for registration under section 63, or

(d) an agreement submitted before the day falling 2 months before the appointed day for registration under section 64(1)(c).

(2) Where a court or the Lands Tribunal determines the notice or agreement is registrable, it may be registered not later than the day falling 2 months after the day on which the court or the Lands Tribunal made the determination.

(3) An exemption notice or an agreement mentioned in subsection (1)(d) which is registered under subsection (2) on or after the day falling 2 months before the appointed day is to be treated as if it had been registered before that day.

(4) Any other notice or agreement which is registered under subsection (2) on or after the appointed day is to be treated as if it had been registered before the appointed day.

(5) The Scottish Ministers may by order—

(a) specify a date after which (or a period after the expiry of which) notices and agreements cannot be registered under subsection (2),

(b) provide that subsection (2) applies only where the application to the court or to the Lands Tribunal which resulted in the determination is made within such period as the order may specify.

(6) In this section, "court" means Court of Session or sheriff.

Modifications etc. (not altering text)

C1 S. 78(2) modified (6.3.2014) by The Long Leases (Appeal Period) (Scotland) Order 2014 (S.S.I. 2014/8), arts. 1, **2**

Commencement Information

I104 S. 78(1)-(4) in force at 6.3.2014 by S.S.I. 2013/322, **art. 4**

I105 S. 78(5)(6) in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(j)**

Miscellaneous

79 Amendments to enactments S

The schedule makes minor and consequential amendments.

Commencement Information

I106 S. 79 in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, **art. 2(I)**

I107 S. 79 in force at 21.2.2014 in so far as not already in force by S.S.I. 2013/322, **art. 3(i)**

80 Interpretation S

(1) In this Act, unless the context otherwise requires—

"the 2003 Act" means the Title Conditions (Scotland) Act 2003 (asp 9),

"additional payment" has the meaning given by section 50,

"appointed day" has the meaning given by section 70,

"compensatory payment" has the meaning given by section 45,

"cumulo renewal premium" has the meaning given by section 38(1),

"cumulo rent" has the meaning given by section 38(1),

"exempt lease" has the meaning given by section 62,

"freshwater fish" means any fish living in fresh water—

(a) including trout and eels (and the fry of eels),

(b) excluding salmon and any kind of fish which migrate between the open sea and tidal waters,

"harbour" and "harbour authority" have the meanings given by section 57(1) of the Harbours Act 1964 (c.40),

"Keeper" means Keeper of the Registers of Scotland,

"land" includes anything held or which, by its nature, may be held as a separate tenement,

"landlord", in relation to a lease, means the person who has right as landlord under the lease whether or not such person has completed title (and, where more than one person comes within that description, the person who most recently acquired that right),

"Lands Tribunal" means Lands Tribunal for Scotland,

"lease" includes a sublease,

"owner", in relation to any land, means the person who has right to the land whether or not such person has completed title (and, where more than one person comes within that description, the person who most recently acquired that right),

"partially continuing lease" has the meaning given by section 37,

"prescribed" means prescribed by the Scottish Ministers in regulations,

"qualifying lease" has the meaning given by section 1(1),

"qualifying condition" means a condition which qualifies under section 10,

"Register of Sasines" has the same meaning as in section 2 of the Conveyancing (Scotland) Act 1924 (c.27),

"registered" means registered in the Land Register of Scotland or (as the case may be) recorded in the Register of Sasines; and cognate expressions are to be construed accordingly,

"renewal obligation" has the meaning given by section 37,

"renewal period" has the meaning given by section 37,

"renewal premium" has the meaning given by section 37,

"sporting right" has the meaning given by section 8(1),

"superior lease" has the meaning given by section 4, and

"tenant", in relation to a lease, means the person who has right as tenant under the lease, whether or not such person has completed title (and where more than one person comes within that description, the person who most recently acquired that right).

(2) Subject to the provisions of this Act, expressions used in this Act and in the 2003 Act have the same meaning in this Act as they do in that Act.

Commencement Information

I108 S. 80 in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(k)**

81 Ancillary provision S

(1) The Scottish Ministers may by order make such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in connection with this Act.

(2) Subject to subsection (3), an order under subsection (1) is subject to the negative procedure.

(3) An order under subsection (1) which adds to, replaces or omits any part of the text of an Act (including this Act) is subject to the affirmative procedure.

82 Subordinate legislation S

(1) Any power of the Scottish Ministers to make an order under section 78(5) or regulations under this Act includes power to make—

(a) such incidental, consequential, supplementary, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient, and

(b) different provision for different purposes.

(2) Orders under section 78(5) and regulations under this Act are subject to the negative procedure.

83 Commencement S

(1) Sections 81 and 82, this section and section 84 come into force on the day of Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under subsection (2) may include such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient in connection with the commencement of this Act.

84 Short title S

The short title of this Act is the Long Leases (Scotland) Act 2012.

SCHEDULE S

(introduced by section 79)

MINOR AND CONSEQUENTIAL AMENDMENTS

Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35)

1 In section 9(2B) (no standard security over personal pre-emption burden or personal redemption burden) of the Conveyancing and Feudal Reform (Scotland) Act 1970, after the words "Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5)" insert " or as the case may be of section 23 of the Long Leases (Scotland) Act 2012 (asp 9)) ".

Commencement Information
I109 Sch. para. 1 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(i)**

Tribunals and Inquiries Act 1992 (c.53)

2 In section 11(7) of the Tribunal and Inquiries Act 1992 (which makes provision for Scotland in relation to appeals from certain tribunals), in paragraph (c)—

(a) the words after "under" become sub-paragraph (i), and

(b) after that sub-paragraph insert—

"(ii) section 21 of the Long Leases (Scotland) Act 2012 (asp 9) (applications in relation to the conversion of certain conditions in leases into real burdens); or

(iii) section 69 of that Act (applications in relation to confirmation of rent);".

Commencement Information
I110 Sch. para. 2 in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(i)**

Title Conditions (Scotland) Act 2003 (asp 9)

3 (1) The 2003 Act is amended in accordance with this paragraph.

(2) In section 12 (division of a benefited property), in subsection (4)(a), after "Act" insert " or sections 29 or 31 of the Long Leases (Scotland) Act 2012 (asp 9) ".

(3) In section 20 (notice of termination of real burdens), after subsection (6) insert—

"(7) This section applies to a real burden created by the conversion of a qualifying condition under Part 2 of the Long Leases (Scotland) Act 2012 (asp 9) as if the reference to the "constitutive deed" were a reference to the deed setting out the qualifying condition.".

(4) In section 63 (manager burdens)—

(a) in subsection (4)(d), for "the case mentioned in subsection (6)" substitute " either of the cases mentioned in subsection (6) or (6A) ",

(b) in subsection (5)(a), for "the case" substitute " either of the cases ",

(c) after subsection (6), insert—

Changes to legislation: *There are currently no known outstanding effects for the Long Leases (Scotland) Act 2012. (See end of Document for details)*

"(6A) The case is where—

(a) a leasehold condition is imposed on the disposal, by virtue of section 61 of the Housing (Scotland) Act 1987 as modified by section 84A of that Act (application of right to buy in cases where landlord is lessee), of a landlord's interest in a property by—

(i) a person such as is mentioned in any of the sub-paragraphs of subsection (2)(a) of section 61; or

(ii) a predecessor of such a person,

to a tenant of such a person; and

(b) that condition is converted into a manager burden under section 30 of the Long Leases (Scotland) Act 2012 (asp 9) (conversion of qualifying conditions into manager burdens).", and

(d) in subsection (8)(b)—

(i) for "that" substitute " those ", and

(ii) for "subsection (6)" substitute " subsections (6) or (6A) ".

(5) In section 105 (consequential alterations to Land Register)—

(a) in subsection (2), for the words from "section", where it first occurs, to "Act", where it second occurs, substitute "—

(a) section 18, 19 or 20 of the 2000 Act;

(b) section 15 or 18 of the Long Leases (Scotland) Act 2012 (asp 9); or

(c) section 4(5), 50, 75 or 80 of this Act,", and

(b) in subsection (3), after paragraph (a) insert—

"(aa) any—

(i) notice under section 14 of the Long Leases (Scotland) Act 2012; or

(ii) agreement under section 17 of that Act,

which converts a qualifying condition (within the meaning of that Act) into a real burden;".

(6) In section 122 (interpretation), subsection (1)—

(a) in the definition of "conservation burden" the word "or" immediately following sub-paragraph (a) is repealed and after sub-paragraph (b) insert—

"(c) obtained by virtue of section 27 of the Long Leases (Scotland) Act 2012 (asp 9) (conversion of qualifying condition to conservation burden); or

(d) obtained by virtue of section 28 of that Act (conversion of qualifying condition to conservation burden where conservation body or Scottish Ministers nominated to enforce);",

(b) in the definition of "economic development burden", at the end insert " and to a real burden created under section 24 of the Long Leases (Scotland) Act 2012 (asp 9) (conversion of qualifying condition to economic development burden) ",

(c) in the definition of "health care burden", at the end insert " and to a real burden created under section 25 of the Long Leases (Scotland) Act 2012 (asp 9) (conversion of qualifying condition to health care burden) ",

(d) in the definition of "personal pre-emption burden" and "personal redemption burden" after the word "Act" insert " and section 23(1) of the Long Leases (Scotland) Act 2012 (asp 9) ".

Commencement Information

I111 Sch. para. 3(1)(5)(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(i)**

I112 Sch. para. 3(2)-(4) in force at 28.11.2013 by S.S.I. 2013/322, **art. 2(I)**

Changes to legislation:
There are currently no known outstanding effects for the Long Leases (Scotland) Act 2012.