

LONG LEASES (SCOTLAND) ACT 2012

EXPLANATORY NOTES

PART 2: CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

Other real burdens

Section 31: Conversion where common scheme affects related properties

144. This section applies to a “qualifying condition” under this Act the regime provided by section 53 of the Title Conditions (Scotland) Act 2003 for real burdens. It draws on the concepts of “common scheme” and “related properties”, used in the 2003 Act. Essentially, qualifying conditions will be imposed under a common scheme insofar as they apply identical or equivalent conditions to each property.
145. The effect of subsection (1) is to convert automatically qualifying conditions which meet the criteria into real burdens in respect of which each property covered by the scheme will be both a benefited and a burdened property. The burdens created will be community burdens. Part 2 of the Title Conditions (Scotland) Act 2003 provides for community burdens and section 25 of the 2003 Act defines “community burdens”.
146. Subsections (2) and (3) provide that whether properties are related depends on the circumstances of each case and gives a list of indicators. A typical example would be flats in the same tenement.
147. Subsection (4) prevents rights of pre-emption, redemption or reversion being conferred by virtue of this section.