Long Leases (Scotland) Act 2012

2012 asp 9

PART 2

CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

Personal real burdens

28 Conversion to conservation burden: rule two

(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

I1 S. 28(1)(2)(3)(b)-(d)(4)-(6) in force at 21.2.2014 by S.S.I. 2013/322, **art. 3(b)**

I2 S. 28(3)(a) in force at 28.11.2013 for specified purposes by S.S.I. 2013/322, art. 2(m), **Sch.**

I3 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)**

Changes to legislation:
There are currently no known outstanding effects for the Long Leases (Scotland) Act 2012, Section 28.