



# Tenements (Scotland) Act 2004

## 2004 asp 11

### *Support and shelter*

#### **7 Abolition as respects tenements of common law rules of common interest**

Any rule of law relating to common interest shall, to the extent that it applies as respects a tenement, cease to have effect; but nothing in this section shall affect the operation of any such rule of law in its application to a question affecting both a tenement and—

- (a) some other building or former building (whether or not a tenement); or
- (b) any land not pertaining to the tenement.

#### **8 Duty to maintain so as to provide support and shelter etc.**

- (1) Subject to subsection (2) below, the owner of any part of a tenement building, being a part that provides, or is intended to provide, support or shelter to any other part, shall maintain the supporting or sheltering part so as to ensure that it provides support or shelter.
- (2) An owner shall not by virtue of subsection (1) above be obliged to maintain any part of a tenement building if it would not be reasonable to do so, having regard to all the circumstances (and including, in particular, the age of the tenement building, its condition and the likely cost of any maintenance).
- (3) The duty imposed by subsection (1) above on an owner of a part of a tenement building may be enforced by any other such owner who is, or would be, directly affected by any breach of the duty.
- (4) Where two or more persons own any such part of a tenement building as is referred to in subsection (1) above in common, any of them may, without the need for the agreement of the others, do anything that is necessary for the purpose of complying with the duty imposed by that subsection.

#### **9 Prohibition on interference with support or shelter etc.**

- (1) No owner or occupier of any part of a tenement shall be entitled to do anything in relation to that part which would, or would be reasonably likely to, impair to a material extent—

- (a) the support or shelter provided to any part of the tenement building; or
  - (b) the natural light enjoyed by any part of the tenement building.
- (2) The prohibition imposed by subsection (1) above on an owner or occupier of a part of a tenement may be enforced by any other such owner who is, or would be, directly affected by any breach of the prohibition.

## **10 Recovery of costs incurred by virtue of section 8**

Where—

- (a) by virtue of section 8 of this Act an owner carries out maintenance to any part of a tenement; and
- (b) the management scheme which applies as respects the tenement provides for the maintenance of that part,

the owner shall be entitled to recover from any other owner any share of the cost of the maintenance for which that other owner would have been liable had the maintenance been carried out by virtue of the management scheme in question.