

*These notes relate to the Tenements (Scotland) Act 2004  
(asp 11) which received Royal Assent on 22 October 2004*

# **TENEMENTS (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **THE ACT**

7. The Act will largely implement the recommendations of the Scottish Law Commission Report on the Law of the Tenement (Scot Law No 162), published on 29 March 1998. The Act is intended to produce greater clarity in the law on tenements. The existing common law rules which demarcate ownership within a tenement are restated. The common law doctrine of common interest is codified by a restatement of the law. There is provision for a statutory right of access and for compulsory insurance.
8. The Act introduces a statutory management scheme called the Tenement Management Scheme which will act as a default management scheme for all tenements in Scotland (this is set out in schedule 1 to the Act). It will provide a structure for the maintenance and management of tenements if this is not provided for in the title deeds. Where the title deeds are silent on matters of decision making the Scheme will allow the owners in a tenement to make decisions by majority vote. The Tenement Management Scheme also introduces the new concept of scheme property. This comprises the main parts of a tenement that are so fundamental to the building as a whole that they should be managed and maintained in accordance with the management scheme of the tenement. This will not, however, affect the ownership of the different parts of the building which remains unchanged. The Tenement Management Scheme also contains default provisions on emergency repairs and the apportionment of costs.