

TENEMENTS (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Boundaries and Pertinents

Section 1 – Determination of Boundaries and Pertinents

9. *Section 1* provides that where neither the title nor other legislation sets out the boundaries of a flat or another sector of a tenement or which parts of a tenement are pertinents of a sector then *sections 2* and *3* will apply to determine the boundaries and pertinents of a sector of a tenement. These provisions will apply to all tenements, whether existing or new. The other legislation that will most commonly apply for these purposes is the Prescription and Limitation (Scotland) Act 1973.
10. “Tenement” is defined in *section 26* and “flat” and “sector” are defined in *section 29*. A sector can be a flat or some other separate part of a tenement such as the close or the roofspace. The use of the term “sector” is a convenient way of describing the different areas which go to make up a tenement building.
11. *Subsection (2)* explains that the “title to the tenement” means any conveyance or reservation of property, or any title sheet comprised in the Land Register of Scotland which affects the tenement or any sector of the tenement. Paragraph (b) is included because under section 3 of the Land Registration (Scotland) Act 1979, title to registered property is vested by registration and not by the conveyance or other deeds that gave rise to the registration.