

TENEMENTS (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Miscellaneous and General

Section 27 – Meaning of “management scheme”

119. The concept that every tenement will in future have a management scheme to assist in common decision making is a fundamental aim of the Act. The management scheme for a particular tenement may be set out in:
- the Tenement Management Scheme in the Act (though it is unlikely that this will apply in its entirety to very many tenements);
 - the development management scheme applied under the Title Conditions Act;
 - the tenement burdens contained in the title deeds (these will apply in a great many cases since they may provide a more comprehensive and sophisticated scheme than the Tenement Management Scheme); or
 - a combination of the tenement burdens and individual rules of the Tenement Management Scheme (as required to supplement the tenement burdens if these are silent or unworkable on the subject matter of the rules of the Tenement Management Scheme).
120. The reference to tenement burdens in *section 27(c)* includes within the definition of “management scheme” any reference in the existing title deeds to maintenance, management or improvement of the tenement. Neither the Tenement Management Scheme nor the development management scheme provide for improvements, but it is possible that the existing titles might do so: the definition reflects that possibility. This does not expand the Act generally to include decision making on improvements and not merely maintenance. It is simply a reference to any existing improvement provisions which may be set out in individual title deeds.