



# Tenements (Scotland) Act 2004

## 2004 asp 11

### *Demolition and abandonment of tenement building*

#### **22 Use and disposal of site where tenement building demolished**

- (1) This section applies where a tenement building is demolished and after the demolition two or more flats which were comprehended by the tenement building before its demolition (any such flat being referred to in this section as a “former flat”) are owned by different persons.
- (2) Except in so far as—
  - (a) the owners of all (or both) the former flats otherwise agree; or
  - (b) those owners are subject to a requirement (whether imposed by a tenement burden or otherwise) to erect a building on the site or to rebuild the tenement, no owner may build on, or otherwise develop, the site.
- (3) Except where the owners have agreed, or are required, to build on or develop the site as mentioned in paragraphs (a) and (b) of subsection (2) above, any owner of a former flat shall be entitled to apply for power to sell the entire site in accordance with schedule 3.
- (4) Except where a tenement burden otherwise provides, the net proceeds of any sale in pursuance of subsection (3) above shall, subject to subsection (5) below, be shared equally among all (or both) the former flats and the owner of each former flat shall be entitled to the share allocated to that flat.
- (5) Where—
  - (a) evidence of the floor area of each of the former flats is readily available; and
  - (b) the floor area of the largest (or larger) former flat was more than one and a half times that of the smallest (or smaller) former flat,the net proceeds of any sale shall be shared among (or between) the flats in the proportion which the floor area of each flat bore to the total floor area of all (or both) the flats and the owner of each former flat shall be entitled to the share allocated to that flat.
- (6) The prohibition imposed by subsection (2) above on an owner of a former flat may be enforced by any other such owner.

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**Changes to legislation:** There are currently no known outstanding effects for the Tenements (Scotland) Act 2004, Section 22. (See end of Document for details)

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- (7) In subsections (4) and (5) above, “net proceeds of any sale” means the proceeds of the sale less any expenses properly incurred in connection with the sale.
- (8) In this section references to the site are references to the solum of the tenement building that occupied the site together with the airspace that is directly above the solum and any land pertaining, as a means of access, to the tenement building immediately before its demolition.

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**Commencement Information**

**II** S. 22 in force at 28.11.2004 by [S.S.I. 2004/487](#), [art. 2\(1\)\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Tenements (Scotland) Act 2004, Section 22.