

EXPLANATORY NOTES

LONG LEASES (SCOTLAND) ACT 2012

INTRODUCTION

SUMMARY AND BACKGROUND

OVERVIEW OF ACT

PART 1: CONVERSION OF LONG LEASE TO OWNERSHIP

Overview of Part 1 of the Act

Determination of “qualifying lease”

Section 1: Meaning of “qualifying lease”

Section 2: Further provision about annual rent

Section 3: Only one lease is qualifying lease

Conversion of right of lease to ownership

Section 4: Conversion of right of lease to right of ownership

Consequences of conversion

Section 5: Extinction of certain rights and obligations

Section 6: Subordinate real rights, reservations and pertinents

Section 7: Creation of servitudes on conversion

Section 8: Conversion of reserved sporting rights

Section 9: Further provision for section 8

PART 2: CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

Overview of Part 2 of the Act

Determination of “qualifying conditions”

Section 10: Qualifying conditions

Section 11: Restriction on conversion of qualifying conditions

Meaning of “qualifying land”

Section 12: Meaning of “qualifying land”

Entitlement to enforce qualifying conditions

Section 13: Determination of who may enforce condition

Conversion of conditions to burdens

Section 14: Conversion by nomination of benefited property

Section 15: Conversion by nomination: registration

Section 16: Conversion by nomination: effect

Section 17: Conversion by agreement

Section 18: Conversion by agreement: registration

Section 19: Conversion by agreement: effect

Section 20: Conversion by agreement: title not completed

Applications relating to section 14

Section 21: Lands Tribunal order

Section 22: Dealing with application under section 21

Personal real burdens

Section 23: Conversion to personal pre-emption or redemption burden

Section 24: Conversion to economic development burden

Section 25: Conversion to health care burden

Section 26: Conversion to climate change burden

Section 27: Conversion to conservation burden: rule one

Section 28: Conversion to conservation burden: rule two

Other real burdens

Section 29: Conversion to facility or service burden

Section 30: Conversion to manager burden

Section 31: Conversion where common scheme affects related properties

Section 32: Conversion where expressly enforceable by certain third parties

Exclusions from conversion

Section 33: Qualifying condition where obligation assumed by public authority

Effect of conversion on counter-obligations

Section 34: Counter-obligations on conversion

Prescription

Section 35: Prescriptive period for converted conditions

Notices and agreements under this Part

Section 36: Further provision for notices and agreements

PART 3: ALLOCATION OF RENTS AND RENEWAL PREMIUMS ETC.

Overview of Part 3 of the Act

Key terms

Section 37: Partially continuing leases and renewal obligations etc

Section 38: *Cumulo* rent and *cumulo* renewal premium

Allocation of rent

Section 39: Allocation of *cumulo* rent before appointed day

Section 40: Allocation of *cumulo* rent after appointed day

Section 41: Partially continuing leases: allocation of rent

Allocation of renewal premium

Section 42: Allocation of *cumulo* renewal premium

Section 43: Partially continuing leases: allocation of renewal premium

Allocation disputed or not made

Section 44: Allocation disputed or not made: reference to Lands Tribunal

PART 4: COMPENSATION FOR LOSS OF LANDLORD'S RIGHTS

Overview of Part 4 of the Act

Compensatory payment

Section 45: Requiring compensatory payment

Section 46: Making compensatory payment

Calculation of compensatory payment

Section 47: Calculation of the compensatory payment

Annual rent

Section 48: Determination of the annual rent

Renewal premiums

Section 49: Calculation of notional annual renewal premium

Additional payment

Section 50: Claiming additional payment

Section 51: Extinguished rights

Section 52: Calculating additional payment

Section 53: Additional payment: former tenant agrees

Section 54: Additional payment: amount mutually agreed

Section 55: Claim for additional payment: reference to Lands Tribunal

Supplementary

Section 56: Claims in excess of £500: preliminary notice

Section 57: Making payment by instalments

Section 58: Collecting third party to disclose information

Section 59: Duty to disclose identity etc. of former tenant

Section 60: Prescription of requirement to make payment

Section 61: Interpretation of Part 4

PART 5: EXEMPTION FROM CONVERSION AND CONTINUING LEASES

Overview of Part 5 of the Act

Exempt leases

Section 62: Exempt leases

Types of exempt leases

Section 63: Exemption of qualifying lease by registration of notice

Section 64: Exemption of qualifying lease by registration of agreement or order

Section 65: Certain leases registered near or after the appointed day

Section 66: Subleases of exempt leases

Section 67: Recall of exemption

Supplementary

Section 68: Exemption and recall notices: supplementary

Section 69: Application to Lands Tribunal for order confirming rent

PART 6: GENERAL AND MISCELLANEOUS

Overview of Part 6 of the Act

The appointed day

Section 70: The appointed day

Duration of lease etc

Section 71: Determining duration of lease

Section 72: Leases continuing on tacit relocation

Extinction of right of irritancy in certain leases

Section 73: Extinction of right of irritancy in certain leases

Section 74: Service of notices

Section 75: Notices: pre-registration requirements

Section 76: Keeper's duty as regards documents

Section 77: Disputed notices: reference to Lands Tribunal

Section 78: Certain documents registrable despite initial rejection

Miscellaneous

Section 79: Amendments to enactments

Section 80: Interpretation

Section 81: Ancillary provision

Section 82: Subordinate legislation

Section 83: Commencement

Section 84: Short title

Schedule

PARLIAMENTARY HISTORY