

LONG LEASES (SCOTLAND) ACT 2012

EXPLANATORY NOTES

PART 1: CONVERSION OF LONG LEASE TO OWNERSHIP

Consequences of conversion

Section 5: Extinction of certain rights and obligations

25. Subsection (1) extinguishes all rights and obligations arising from the qualifying lease and any superior lease. The rights and obligations may be set out expressly in a deed or be implied by virtue of the landlord and tenant relationship. There is a saving for any rights or obligations that survive the appointed day in one form or another under sections 6 and 7 and Part 2.
26. Subsection (2) provides an exception for personal rights and obligations.
27. Subsection (3) makes it clear that the obligation to pay rent for any period before the appointed day remains enforceable.
28. Subsection (4) prevents any proceedings being raised or continued after the appointed day for the enforcement of any rights and obligations extinguished by subsection (1). It does not matter that the breach occurred before the appointed day. Any decree or interlocutor already pronounced does not survive the appointed day. For instance, an interdict enforcing a use restriction would cease to apply.
29. Subsection (5) provides that subsection (4) does not apply to rights and obligations which survive the appointed day under sections 6 and 7 and Part 2. It will also remain possible after the appointed day to enforce a right to recover damages or a right to the payment of money (such as unpaid rent due before the appointed day). Subsection (5) further provides that subsection (4) does not apply to a right of irritancy. ("Irritancy" means a landlord's right to terminate a lease). Section 73 contains specific provision on the extinction of right of irritancy in certain leases.