



# Long Leases (Scotland) Act 2012

## 2012 asp 9

### PART 2

#### CONVERSION OF CERTAIN LEASEHOLD CONDITIONS TO REAL BURDENS

##### *Other real burdens*

#### **29 Conversion to facility or service burden**

- (1) Where a qualifying condition regulates the maintenance, management, reinstatement or use of heritable property which constitutes, and is intended to constitute, a facility of benefit to land other than the qualifying land then, on the appointed day, such condition becomes a facility burden in relation to which—
  - (a) the qualifying land is the burdened property, and
  - (b) the heritable property which constitutes the facility and any land to which the facility is (and is intended to be) of benefit is the benefited property.
- (2) Where a qualifying condition relates to the provision of services to land other than the qualifying land, then the qualifying condition, on the appointed day, becomes a service burden in relation to which—
  - (a) the qualifying land is the burdened property, and
  - (b) any land to which the services are provided is the benefited property.
- (3) Without prejudice to the generality of subsection (1), examples of property which might constitute a facility mentioned in that subsection are—
  - (a) a common part of a tenement,
  - (b) a common area for recreation,
  - (c) a private road,
  - (d) private sewerage,
  - (e) a boundary wall.

#### **30 Conversion to manager burden**

- (1) Where a qualifying condition confers on such person as may be specified in the condition power to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) act as the manager of related properties,
- (b) appoint some other person to be such manager, or
- (c) dismiss any person appointed by virtue of the power mentioned in paragraph (b),

then, on the appointed day, such condition becomes a real burden in favour of such person and in relation to such burden the qualifying land is the burdened property.

- (2) A real burden constituted by virtue of subsection (1) is a manager burden.
- (3) For the purposes of subsection (1), whether properties are related properties is to be inferred from all the circumstances.
- (4) Without prejudice to the generality of this section, circumstances giving rise to such an inference might include—
  - (a) the convenience of managing the properties together because they share—
    - (i) some common feature, or
    - (ii) an obligation for common maintenance of some facility,
  - (b) it being evident that the properties constitute a group of properties on which qualifying conditions are imposed under a common scheme, or
  - (c) there being shared rights to common property.

### **31 Conversion where common scheme affects related properties**

- (1) Where qualifying conditions are imposed under a common scheme on a group of related properties, such conditions, on the appointed day, become real burdens in relation to which each property is a benefited and a burdened property.
- (2) For the purposes of subsection (1), whether properties are related properties is to be inferred from all the circumstances.
- (3) Without prejudice to the generality of this section, circumstances giving rise to such an inference might include—
  - (a) the convenience of managing the properties together because they share—
    - (i) some common feature, or
    - (ii) an obligation for common maintenance of some facility,
  - (b) there being shared rights to common property,
  - (c) the properties being subject to the common scheme by virtue of the same deed of conditions, or
  - (d) the properties each being a flat in the same tenement.
- (4) This section confers no right of pre-emption, redemption or reversion.

### **32 Conversion where expressly enforceable by certain third parties**

Where a qualifying condition is expressed as being enforceable by—

- (a) the owner, or
- (b) the tenant,

of land other than the qualifying land then, on the appointed day, such condition becomes a real burden in relation to which the qualifying land is the burdened property and that other land is a benefited property.