



# Tenements (Scotland) Act 2004

## 2004 asp 11

### TENEMENTS (SCOTLAND) ACT 2004

#### *Boundaries and pertinents*

- 1 Determination of boundaries and pertinents
- 2 Tenement boundaries
- 3 Pertinents

#### *Tenement Management Scheme*

- 4 Application of the Tenement Management Scheme
- 4A Power of local authority to pay share of scheme costs

#### *Resolution of disputes*

- 5 Application to sheriff for annulment of certain decisions
- 6 Application to sheriff for order resolving certain disputes

#### *Support and shelter*

- 7 Abolition as respects tenements of common law rules of common interest
- 8 Duty to maintain so as to provide support and shelter etc.
- 9 Prohibition on interference with support or shelter etc.
- 10 Recovery of costs incurred by virtue of section 8

#### *Repairs: costs and access*

- 11 Determination of when an owner's liability for certain costs arises
- 12 Liability of owner and successors for certain costs
- 13 Notice of potential liability for costs: further provision
- 14 Former owner's right to recover costs
- 15 Prescriptive period for costs to which section 12 relates
- 16 Common property: disapplication of common law right of recovery
- 17 Access for maintenance and other purposes

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### *Insurance*

- 18 Obligation of owner to insure

### *Installation of service pipes etc.*

- 19 Installation of service pipes etc.

### *Demolition and abandonment of tenement building*

- 20 Demolition of tenement building not to affect ownership  
 21 Cost of demolishing tenement building  
 22 Use and disposal of site where tenement building demolished  
 23 Sale of abandoned tenement building

### *Liability for certain costs*

- 24 Liability to non owner for certain damage costs

### *Miscellaneous and general*

- 25 Amendments of Title Conditions (Scotland) Act 2003  
 26 Meaning of “tenement”  
 27 Meaning of “management scheme”  
 28 Meaning of “owner”, determination of liability etc.  
 29 Interpretation  
 30 Giving of notice to owners  
 31 Ancillary provision  
 32 Orders and regulations  
 33 Crown application  
 34 Short title and commencement

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## SCHEDULE 1 — Tenement Management Scheme

### RULE 1 — SCOPE AND INTERPRETATION

- 1.1 Scope of scheme  
 1.2 **Meaning of “scheme property”**  
 1.3 **Parts not included in rule 1.2(c)**  
 1.4 **Meaning of “scheme decision”**  
 1.5 **Other definitions**  
 1.6 **Rights of co-owners**  
 RULE 2 — **PROCEDURE FOR MAKING SCHEME DECISIONS**  
 2.1 **Making scheme decisions**  
 2.2 **Allocation and exercise of votes**  
 2.3 **Qualification on allocation of votes**  
 2.4 **Exercise of vote where two or more persons own flat**  
 2.5 **Decision by majority**  
 2.6 **Notice of meeting**  
 2.7 **Consultation of owners if scheme decision not made at meeting**  
 2.8 **Consultation where two or more persons own flat**  
 2.9 **Notification of scheme decisions**  
 2.10 **Case where decision maybe annulled by notice**  
 2.11 **Time limits for rule 2.10**

**RULE 3 – — MATTERS ON WHICH SCHEME DECISIONS MAY BE  
MADE**

- 3.1 **Basic scheme decisions**
- 3.2 **Scheme decisions relating to maintenance**
- 3.3 **Scheme decisions under rule 3.2(c) requiring deposits exceeding  
certain amounts**
- 3.4 **Provision supplementary to rule 3.3**
- 3.5 **Scheme decisions under rule 3.1(g): votes of persons standing to  
benefit not to be counted**

**RULE 4 – — SCHEME COSTS: LIABILITY AND APPORTIONMENT**

- 4.1 **Meaning of “scheme costs”**
- 4.2 **Maintenance and running costs**
- 4.3 **Scheme costs relating to roof over the close**
- 4.4 **Insurance premium**
- 4.5 **Other scheme costs**

**RULE 5 – — REDISTRIBUTION OF SHARE OF COSTS**

Where an owner is liable for a share of any...

**RULE 6 – — PROCEDURAL IRREGULARITIES**

- 6.1 **Validity of scheme decisions**
- 6.2 **Liability for scheme costs where procedural irregularity**

**RULE 7 – — EMERGENCY WORK**

- 7.1 **Power to instruct or carry out**
- 7.2 **Liability for cost**
- 7.3 **Meaning of “emergency work”**

**RULE 8 – — ENFORCEMENT**

- 8.1 **Scheme binding on owners**
- 8.2 **Scheme decision to be binding**
- 8.3 **Enforceability of scheme decisions**
- 8.4 **Enforcement by third party**

**RULE 9 – — GIVING OF NOTICE**

- 9.1 **Giving of notice**
- 9.2 **Methods of “sending” for the purposes of rule 9.1**
- 9.3 **Giving of notice to owner where owner's name is not known**
- 9.4 **Day on which notice is to be taken to be given**

**SCHEDULE 2 — Form of notice of potential liability for costs**

Notes for completion

(These notes are not part of the notice)

- 1 Describe the flat in a way that is sufficient to...
- 2 Describe the maintenance or work in general terms.
- 3 Give the name and address of the person applying for...
- 4 The notice must be signed by or on behalf of...

**SCHEDULE 3 — Sale under section 22(3) or 23(1)**

- 1 *Application to sheriff for power to sell*
- 2 *Appeal against grant or refusal of power of sale order*
- 3 *Registration of power of sale order*
- 4 *Exercise of power of sale*
- 5 *Distribution of proceeds of sale*
- 6 *Automatic discharge of heritable securities*

**SCHEDULE 4 — Amendments of Title Conditions (Scotland) Act 2003**

- 1 The Title Conditions (Scotland) Act 2003 (asp 9) shall be...

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- 2 In section 3(8) (waiver, mitigation and variation of real burdens),...
- 3 In section 4 (creation of real burdens), in subsection (7),...
- 4 In section 10 (affirmative burdens: continuing liability of former owner)  
—...
- 5 After section 10 there shall be inserted— Notice of potential...
- 6 In section 11 (affirmative burdens: shared liability), after  
subsection (3)...
- 7 In section 25 (definition of the expression “community burdens”), in...
- 8 In section 29 (power of majority to instruct common maintenance)—...
- 9 After section 31 there shall be inserted— Disapplication of provisions...
- 10 In section 33 (majority etc. variation and discharge of community...
- 11 In section 35 (variation and discharge of community burdens by...
- 12 In section 43 (rural housing burdens)— (a) in subsection (1),...
- 13 In section 45 (economic development burdens), subsection (6) shall be...
- 14 In section 53 (common schemes: related properties), after  
subsection (3)...
- 15 In section 90 (powers of Lands Tribunals as respects title...
- 16 In section 98 (granting certain applications for variation, discharge,  
renewal...
- 17 In section 99 (granting applications as respects development  
management schemes),...
- 18 In section 119 (savings and transitional provision etc.), subsection (9)...
- 19 In section 122(1) (interpretation)— (a) the definition of “flat” shall...
- 20 After schedule 1 there shall be inserted— SCHEDULE 1A Form...

**Changes to legislation:**

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