

*These notes relate to the Title Conditions (Scotland) Act
2003 (asp 9) which received Royal Assent on 3 April 2003*

TITLE CONDITIONS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Miscellaneous

Section 118: Common interest

492. Common interest comprises rights and obligations arising by operation of law between owners of certain properties typically flats in a tenement. The right of common interest bears a resemblance to real burdens as it runs with the land. Normally common interest arises simply by force of law: it is implied and it is open to question whether such a right can be created by express agreement. If express creation were possible, common interest could be used as a substitute for real burdens and hence as a means of avoiding the provisions of this Act. Accordingly, *section 118* makes clear that common interest cannot be expressly created. Section 118 comes into force on the day after Royal Assent (section 129(3)).