



Long Leases (Scotland) Act 2012

2012 asp 9

PART 1

CONVERSION OF LONG LEASE TO OWNERSHIP

Determination of “qualifying lease”

1 Meaning of “qualifying lease”

- (1) A lease is a “qualifying lease” if it complies with subsection (3).
- (2) Subsection (1) is subject to section 3.
- (3) A lease complies with this subsection if, immediately before the appointed day, it is a right of lease in land—
 - (a) which is registered,
 - (b) granted for a period of more than 175 years, and
 - (c) in respect of which the unexpired portion of that period is—
 - (i) where the subjects of the lease wholly or mainly comprise a private dwelling house, more than 100 years,
 - (ii) in any other case, more than 175 years.
- (4) But a lease does not so comply if—
 - (a) the annual rent payable under the lease is over £100,
 - (b) the subjects of the lease include a harbour (either wholly or partly) in relation to which there is a harbour authority,
 - (c) it is one granted for the sole purpose of allowing the tenant to install and maintain pipes or cables, or
 - (d) it is one either—
 - (i) of minerals, or
 - (ii) which includes minerals and in respect of which a royalty, lordship or other payment of rent determined by reference to the exploitation of those minerals is or may be payable.
- (5) Where a lease is divided (whether as a result of partial assignation or otherwise), each part is treated as a separate lease for the purposes of this Act.

- (6) For the purposes of subsection (3)(c)(i), “dwelling house” includes any yard, garden, outbuilding or other pertinent.

2 Further provision about annual rent

- (1) This section applies for the purposes of section 1(4)(a) in determining the annual rent payable under a lease.
- (2) Subject to subsections (4) to (6), the rent payable under a lease is the rent as set out in a document mentioned in subsection (3).
- (3) The documents are—
- (a) the lease,
 - (b) a registered assignation of the lease, or
 - (c) a registered minute of variation or agreement in relation to the lease.
- (4) Where a *cumulo* rent is payable in relation to two or more leases, the annual rent payable under each lease is deemed to be nil.
- (5) Any rent payable under a lease which is expressed wholly or partly in non-monetary terms is, to the extent that it is so expressed, to be left out of account.
- (6) Any rent payable under a lease which is variable from year to year is, to the extent that it is so variable, to be left out of account.

3 Only one lease is qualifying lease

- (1) This section applies where land is subject to two or more potential qualifying leases.
- (2) Subsections (3) and (4) have effect for the purposes of determining—
- (a) which of the leases is the qualifying lease, and
 - (b) of which land the lease is a qualifying lease.
- (3) A potential qualifying lease is not a qualifying lease if all of the land which forms the subjects of the lease forms the subjects of an inferior lease.
- (4) In any other case, a potential qualifying lease is the qualifying lease of land that—
- (a) forms the subjects of the potential qualifying lease, but
 - (b) does not form the subjects of an inferior lease.
- (5) In this section—
- “potential qualifying lease” means a lease that complies with section 1(3),
 - “inferior lease”, in relation to a potential qualifying lease, means a sublease—
 - (a) of the whole or part of the subjects of the potential qualifying lease, and
 - (b) which is itself a potential qualifying lease.