

LONG LEASES (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament's Standing Orders, in relation to the Long Leases (Scotland) Bill. It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.
2. The contents of this Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

OUTLINE OF BILL PROVISIONS

3. The Bill is divided into 5 parts and has 80 sections. There is also one schedule. The Bill is based on a report by the Scottish Law Commission (SLC)¹ and follows a consultation by the Scottish Government.² The Bill converts ultra-long leases (more than 175 years long and with more than 100 years left to run) to ownership. Tenants may opt out, if they wish. Landlords can claim compensation for the loss of their rights. Some leasehold conditions will convert to real burdens in the title deeds. Landlords can preserve some sporting rights in relation to game and fishing.

Part 1: Conversion of long lease to ownership (sections 1 to 8)

4. Part 1 lays down which leases are eligible for conversion to ownership under the Bill; which rights are extinguished and which continue; and contains provisions enabling landlords to preserve sporting rights in relation to game and fishing.

Part 2: Conversion of certain leasehold conditions to real burdens (sections 9 to 36)

5. Part 2 provides a scheme for the conversion of certain leasehold conditions into real burdens. Once the conditions have been converted they become subject to the law on real

¹ The SLC report is at <http://www.scotlawcom.gov.uk/publications/reports/2000-2009/> (Report 204)

² The consultation by the Scottish Government is at <http://www.scotland.gov.uk/Publications/2010/03/26131302/0>

burdens. The law on real burdens is primarily contained in the Title Conditions (Scotland) Act 2003. Section 1 of the 2003 Act outlines what real burdens are.

Part 3: Compensation for loss of landlord's rights (sections 37 to 60)

6. Part 3 sets out a scheme under which the landlord of a lease converting to ownership under Part 1 may claim compensation. A landlord may claim a general payment for the loss of rights. This is termed a compensatory payment and is based on the capitalised value of the rent (see sections 37 to 47).

7. Exceptionally, a payment based on the capitalised value of the rent may not be enough to fully compensate the landlord. In certain cases, therefore, a landlord may claim a further payment, termed an "additional payment", for the loss of the right in question (see sections 48 to 53).

8. Part 3 also contains provisions in relation to the landlord serving a preliminary notice where a claim is likely to exceed £500 (see section 54); the tenant making payments by instalments when the amount due is £50 or more (see section 55) and the disclosure of information (see sections 56 and 57).

Part 4: Exemption from conversion and continuing leases (sections 61 to 66)

9. This Part contains provisions on the tenant opting out of converting a lease to ownership by exempting the lease and on recalling an exemption (which makes a lease eligible for conversion so long as it meets the general criteria for conversion). This Part also contains provisions on the registration of unregistered leases. These are then treated as leases which are exempt from conversion but with the tenant having the option of recalling this exemption.

Part 5: General and miscellaneous (sections 67 to 80)

10. This Part contains provisions on a variety of issues: the appointed day; how to determine the duration of leases; leases continuing on tacit relocation; irritancy; service of notices; registration of notices; matters the Keeper of the Registers is not required to determine; referring disputed notices to the Lands Tribunal; the registration of documents rejected by the Keeper when the courts or the Lands Tribunal determine that they are registrable; amendments to enactments; interpretation; ancillary provisions; subordinate legislation and commencement.

APPROACH TO USE OF DELEGATED POWERS

11. The Government has had regard, when deciding whether provision should be made in subordinate legislation rather than in primary legislation to the need to make proper use of Parliamentary time and the need for flexibility in some circumstances to respond to changing circumstances.

12. In particular, there is one significant difference in approach between the Bill prepared by the SLC (which can be found at the back of their report) and the Bill prepared by the Government. The SLC report contained 20 schedules. 19 of these schedules are forms to be

used when leases are converting to ownership. The other schedule relates to a table of life expectancy, which may be used in a small number of cases to help determine the length of a lease and whether or not it is eligible for conversion under the Bill.

13. The Government has decided that it is preferable for the forms and the table of life expectancy to be prescribed by Statutory Instrument, instead of including them on the face of the Bill. This shortens the length of the Bill and provides more flexibility if any of the forms should need to be changed. The Government expects the forms will be along similar lines to the forms contained in the schedules to the Scottish Law Commission Bill, although there will need to be one further form to reflect the creation of climate change burdens by section 68 of the Climate Change (Scotland) Act 2009. The Government will seek views from key parties, such as Registers of Scotland, on the SSI which will contain the draft forms before the SSI is made.

14. The delegated power provisions are listed below, with a short explanation of what the powers allow and why the selected form of Parliamentary procedure has been considered appropriate. Where appropriate, powers have been grouped as a number of the powers in the Bill (e.g. in relation to the forms) are of a similar nature.

COMMENTARY ON POWERS IN THE BILL

Forms

15. Commentary on delegated powers in the Bill relating to notices is below:

Part 1 of the Bill

Section 7(2) – Power to prescribe a notice which a landlord can execute and register to conserve sporting rights

Part 2 of the Bill

Section 13(3)(a) – Power to prescribe a notice which an entitled person can execute and register to prospectively convert a qualifying leasehold condition into a real burden

Section 16(4)(a) – Power to prescribe a notice which an entitled person may serve on a tenant to enter into an agreement to prospectively convert a qualifying condition into a real burden

Section 23(3)(a) – Power to prescribe a notice which a person entitled to enforce a condition comprising a right of pre-emption or a right of redemption may execute and register to convert the condition into a personal pre-emption burden or a personal redemption burden

Section 24(2)(a) – Power to prescribe a notice which a local authority or the Scottish Ministers, when entitled to enforce a leasehold condition for the purpose of promoting economic development, may execute and register to prospectively convert the condition into an economic development burden

Section 25(2)(a) – Power to prescribe a notice which the Scottish Ministers, when entitled to enforce a leasehold condition for the purpose of promoting the provision of facilities for

health care, may execute and register to prospectively convert the condition into a health care burden

Section 26(2)(a) – Power to prescribe a notice which a public body or trust or the Scottish Ministers, when entitled to enforce a leasehold condition for the purpose of reducing greenhouse gas emissions, may execute and register to prospectively convert the condition into a climate change burden

Section 27(3)(a) – Power to prescribe a notice which a conservation body or the Scottish Ministers, when entitled to enforce a leasehold condition for the purpose of preserving the architectural or historical characteristics of land or any other special characteristics of land, may execute and register to prospectively convert the condition into a conservation burden

Section 28(3)(a) – Power to prescribe a notice which a person other than a conservation body or the Scottish Ministers, when entitled to enforce a leasehold condition for the purpose of preserving the architectural or historical characteristics of land or any other special characteristics of land, may execute and register to prospectively convert the condition into a conservation burden and nominate a conservation body or the Scottish Ministers to enforce the burden

Part 3 of the Bill

Section 37(2) – Power to prescribe a notice which a former landlord may serve on a former tenant requiring a compensatory payment be made

Section 37(4)(b) – Power to prescribe an explanatory note for the notice which a former landlord may serve on a former tenant requiring a compensatory payment be made

Section 48(5)(b) and (c) – Power to prescribe a notice and explanatory note which a former landlord may serve on a former tenant claiming an additional payment

Section 52(3)(b) and (c) – Power to prescribe a notice and explanatory note which a former landlord may serve on a former tenant where they have agreed the amount of the additional payment (and this amount is different to what was originally claimed)

Section 54(3)(a) and (c) – Power to prescribe a preliminary notice and explanatory note which a landlord may serve on a tenant stating the landlord's intention to require a compensatory payment likely to exceed £500 or an additional payment (or additional payments) likely to exceed £500

Section 55(2)(a) and (b) – Power to prescribe an instalment document and explanatory note which a former landlord must serve on a former tenant in relation to a compensatory payment or additional payment exceeding £50

Part 4 of the Bill

Section 62(b) – Power to prescribe a notice which a tenant may execute and register so that the tenant's lease is treated as exempt and so is not converted

Section 65(1)(b) – Power to prescribe a notice which a tenant may execute and register to recall an exemption (so the lease can then convert)

Section 66(2)(b) – Power to prescribe explanatory notes for notices which a tenant may execute and register to exempt a lease from conversion and to recall an exemption

Part 5 of the Bill

Section 71(3)(a) and (b) – Power to prescribe an acknowledgement of the receipt of a notice and a certificate showing a notice was sent

Section 72(2)(b) – Power to prescribe the explanatory note for notices under section 7 (conversion of reserved sporting rights) and Part 2 (conversion of certain leasehold conditions to real burdens)

Power conferred on: Scottish Ministers

Power exercisable by: regulations made by statutory instrument

Parliamentary procedure: negative resolution of the Scottish Parliament

Provisions

16. These provisions relate to powers to prescribe notices and explanatory notes. “Prescribed” is defined in section 77(1) as “prescribed by the Scottish Ministers in regulations”. In detail:

Section 7(2)

17. Where a landlord executes and registers a notice in accordance with section 7(2) to (6), section 7(7) converts a sporting right into a separate tenement (i.e. rights which can be owned separately from the physical land to which they relate). In this way, landlords can preserve rights to game and fishing. Section 7(2) provides a power to prescribe a form of notice for landlords to use. [The form in the SLC Bill is at Schedule 1].

Section 13(3)(a)

18. Section 13(3)(a) provides a power to prescribe the form of notice which an entitled person may use when prospectively converting a qualifying leasehold condition to a real burden. Qualifying leasehold conditions may only be converted if at least one of the conversion conditions laid down in section 13(4) is met or the Lands Tribunal for Scotland has made an order under section 20 dispensing with the need for any of the conversion conditions to be met. (An application may only be made to the Lands Tribunal for Scotland after an attempt has been made to reach agreement with the tenant under section 16). [The form in the SLC Bill is at Schedule 2].

Section 16(4)(a)

19. Section 16 allows an entitled person to seek to enter into an agreement with the tenant of the qualifying lease for the purpose of converting a qualifying condition into a real burden in favour of neighbouring land. Section 16(4)(a) provides a power to prescribe the form of notice

which an entitled person may use when trying to reach an agreement with the tenant. [The form in the SLC Bill is at Schedule 3].

Section 23(3)(a)

20. Section 23 provides for the conversion of qualifying leasehold conditions into personal pre-emption burdens (right of first refusal to purchase property) or personal redemption burdens (right where the tenant's interest reverts to the landlord on the occasion of a specified event or on a specific date). Subsection 23(3)(a) provides a power to prescribe the form of notice for an entitled person to use when converting qualifying leasehold conditions into personal pre-emption burdens or personal redemption burdens. [The form in the SLC is at Schedule 4].

Sections 24(2)(a); 25(2)(a); 26(2)(a); 27(3)(a) and 28(3)(a)

21. Sections 24, 25, 26, 27 and 28 provide for the conversion by certain bodies of leasehold conditions into the following personal real burdens: economic development; health care; climate change and conservation. Sections 24(2)(a); 25(2)(a); 26(2)(a); 27(3)(a) and 28(3)(a) provide powers to prescribe forms of notice to be used by those bodies. [The forms in the SLC Bill are at Schedule 5 (economic development burden); Schedule 6 (health care burden); Schedule 7 (conservation burden where the enforcement body is a conservation body or the Scottish Ministers) and Schedule 8 (conservation burden where the enforcement body is not a conservation body or the Scottish Ministers). There was no form in the SLC Bill for climate change burdens as these burdens were introduced by the Climate Change (Scotland) Act 2009 and the SLC report is from 2006].

Section 37(2)

22. Landlords must claim any compensatory payment (section 37). Section 37(2) provides a power to prescribe the form of notice for landlords to use in doing so. The notice must be accompanied by an explanatory note. Section 37(4)(b) provides a power to prescribe the form of the explanatory note. (Compensatory payments are calculated in accordance with section 40 and are based on the rent payable under the lease. If a landlord considers that the compensatory payment is insufficient for the loss of rights, the landlord may claim additional payments under sections 48 to 53). [The forms in the SLC Bill are at Schedules 9, 10 and 11].

Section 48(5)(b) and (c)

23. Landlords may also claim that an additional payment (calculated in accordance with section 50) be made by the former tenant in respect of the extinction of certain rights mentioned in section 49(1). Section 48(5)(b) provides a power to prescribe the form of notice for landlords to use in doing so. The notice must be accompanied by an explanatory note. Section 48(5)(c) provides a power to prescribe the form of the explanatory note. [The form in the SLC Bill is at Schedule 12].

Section 52(3)(b) and (c)

24. Following service of an additional payment notice under section 48, former landlords and former tenants may agree that a different amount be paid. In such a case, section 52(2) requires

that a landlord serve a further notice on the tenant. Section 52(3)(b) provides a power to prescribe the form of that notice and section 52(3)(c) provides a power to prescribe the form of explanatory note that must accompany the notice. [The form in the SLC Bill is at Schedule 13].

Section 54(3)(a) and (c)

25. A landlord must serve a preliminary notice on the tenant if the landlord is seeking a compensatory payment or an additional payment (or additional payments) exceeding £500. If a preliminary notice is not served, the compensatory payment may not exceed £500 and, similarly, an additional payment (or additional payments) may not exceed £500 (section 54(4) refers). Section 54(3)(a) provides a power to prescribe the form of that notice and section 54(3)(c) provides a power to prescribe the form of the explanatory note that must accompany the notice. [The forms in the SLC Bill are at Schedules 14 and 15].

Section 55(2)(a) and (b)

26. Where the compensatory payment or additional payment is £50 or more, the former landlord must serve an instalment document along with the relevant notice. The instalment document allows the tenant to make compensatory or additional payments by instalments. The instalment document must be served when requiring a compensatory payment equal to or greater than £50 (section 37(5) refers) or claiming an additional payment equal to or greater than £50 (section 48(5) refers) or requiring an agreed additional payment equal to or greater than £50 (section 52(4) refers). Section 55(2)(a) provides a power to prescribe the form of the instalment document and section 55(2)(b) provides a power to prescribe the form of the explanatory note that must accompany the notice. [The form in the SLC Bill is at Schedule 16].

Section 62(b)

27. Section 62 allows the tenant of a qualifying lease to opt out of conversion so that it becomes an exempt lease. Section 62(b) provides a power to prescribe the form of exemption notice to be executed and registered by the tenant under the lease. [The form in the SLC Bill is at Schedule 18].

Section 65(1)(b)

28. Section 65 allows the tenant under an exempt lease to register a notice of recall so the lease can then become eligible for conversion so long as it meets the general criteria for conversion. Section 65(1)(b) provides a power to prescribe a form of the recall notice. [The form in the SLC Bill is at Schedule 19].

Section 66(2)(b)

29. Section 66 sets out the rules for the service and registration of a notice of exemption or a notice of recall. Section 66(2) requires that the tenant must send to the landlord a copy of the notice and an explanatory note. Section 66(2)(b) provides a power to prescribe the form of explanatory note for exemption and recall notices. [In the SLC Bill, this would relate to the forms at Schedules 18 and 19].

Section 71(3)(a) and (b)

30. Section 71 sets out rules for service of notice under section 16(1)(a) or Part 3. Section 71(3)(a) and (b) provide powers to prescribe the form of acknowledgement that a notice has been served and certificate of posting. These are sufficient evidence of service of a notice. [The forms in the SLC Bill are at Schedule 17].

Section 72(2)(b)

31. Section 72 provides that a person who intends to execute a notice which is to be submitted for registration under section 7 or Part 2 must send the tenant, by post, a copy of that notice together with an explanatory note. Section 72(2)(b) provides a power to prescribe the form of explanatory note relating to notices served under section 7 or Part 2. [The relevant forms in the SLC Bill are at Schedules 1 to 8].

Reasons for taking powers

32. The notices are an integral part of the conversion of ultra-long leases to ownership. They provide the mechanics for:

- allowing landlords to preserve sporting rights;
- allowing landlords and other entitled persons to convert leasehold conditions to real burdens;
- allowing landlords to require or claim compensatory and additional payments;
- ensuring landlords can serve preliminary notices for payments exceeding £500 and can serve instalment documents where the payment is over £50;
- acknowledging service of notices and providing proof of posting of notices;
- allowing tenants to opt out of conversion; and
- allowing tenants to recall exemption notices.

33. The notices are, therefore, required to implement successfully the conversion of leases to ownership under the Bill. They could have been included as Schedules to the Bill (as in the SLC Bill). However, this would have increased the size of the Bill and made it harder to make any changes to the forms should these be required. Although the Scottish Law Commission Bill did include the forms (and the table of life expectancy) as Schedules, there was also a provision (section 66 of the SLC Bill) to prescribe forms to replace those in the schedules (and to amend the table of life expectancy). Scottish Ministers consider this level of detail is more appropriate for secondary legislation.

Choice of procedure

34. By virtue of section 79(3), regulations made under all of the powers listed above are subject to annulment in pursuance of a resolution of the Scottish Parliament. It is considered that the powers here relate to straightforward matters and, as a result, that negative resolution procedure provides an appropriate balance between expedition and convenience on the one hand and, on the other hand, the need for scrutiny of a provision of this nature.

Section 21(3) - Power to prescribe a period during which a person may oppose or make representations in relation to an application to the Lands Tribunal to dispense with the need for a conversion condition to be met when converting a leasehold condition to a real burden

Power conferred on: Scottish Ministers
Power exercisable by: regulations made by statutory instrument
Parliamentary procedure: negative resolution of the Scottish Parliament

Provision

35. Section 20 permits an entitled person to apply to the Lands Tribunal for an order where that person is unable to proceed under section 13(2) (conversion by nomination of benefited property). Section 21(3) creates a power for Scottish Ministers to prescribe by regulations a time limit during which any representations to the Tribunal would have to be made where the Lands Tribunal has received such an application.

Reasons for taking powers

36. The purpose of the power is to help ensure the Tribunal can deal with any cases without unnecessary delays.

Choice of procedure

37. By virtue of section 79(3), regulations made this power are subject to annulment in pursuance of a resolution of the Scottish Parliament. It is considered that the powers here relate to straightforward matters and, as a result, that negative resolution procedure provides an appropriate balance between expedition and convenience on the one hand and, on the other hand, the need for scrutiny of a provision of this nature.

Section 68(1)(c)(ii) - Power to lay down a table of life expectancy to be used to help determine the period of a lease

Power conferred on: Scottish Ministers
Power exercisable by: regulations made by statutory instrument
Parliamentary procedure: negative resolution of the Scottish Parliament

Provision

38. Section 68(1)(c)(ii) creates a power for Scottish Ministers to set out in regulations a table of life expectancy.

Reasons for taking powers

39. The Scottish Law Commission note (in paragraph 2.29 of their Report) that a small number of leases have been granted for the life of the first tenant plus a further period of years. The survey carried out by the SLC indicated that the leases which they had looked at containing conditions of this nature would qualify for conversion (as the further period of years in the leases they looked at were well above the durational requirements that leases are let for more than 175 years and have more than 100 years left to run).

40. However, in case there should be leases with conditions of this nature where it is not so clear-cut that the leases meet the durational requirements under the Bill, section 68(1)(c) of the Government's Bill makes provision to calculate references to the lifetime of a tenant. Where the tenant is dead, the period he or she held the lease is used, if it can be calculated. If it cannot be calculated, a period of 35 years is used. Where the tenant is identifiable and not deceased, the table of life expectancy will be used. This was Schedule 20 in the SLC Bill. The Government expects that the table of life expectancy prescribed in regulations would be based on data available from the General Register Office for Scotland.³

Choice of procedure

41. By virtue of section 79(3), regulations made this power are subject to annulment in pursuance of a resolution of the Scottish Parliament. It is considered that the powers here relate to straightforward matters and, as a result, that negative resolution procedure provides an appropriate balance between expedition and convenience on the one hand and, on the other hand, the need for scrutiny of a provision of this nature.

Section 75(5) - Power to prescribe a date or period after which notices and agreements determined registrable by the courts or the Lands Tribunal cannot be registered and to provide that applications to the courts or the Tribunal must be made within a specified period for the notices and agreements to be registrable

Power conferred on: Scottish Ministers
Power exercisable by: order made by statutory instrument
Parliamentary procedure: negative resolution of the Scottish Parliament

Provision

42. Section 75(5) creates a power for Scottish Ministers to make an order:

- specifying a date or period after which notices and agreements determined as registrable by the court or the Lands Tribunal could not be registered; and
- laying down a period during which applications to the court or the Lands Tribunal have to be made for notices to be registrable.

Reasons for taking powers

43. Section 75 of the Bill makes provision about the courts or the Lands Tribunal determining that notices or agreements rejected by the Keeper of the Registers may be registered.

44. Section 75(5)(a) allows Ministers to specify, by order, a date or period after which notices and agreements deemed registrable by the courts or the Lands Tribunal could not be registered. This follows an SLC recommendation (paragraph 8.12 of their report) that there should be a long-stop provision of this nature to increase long-term certainty for parties relying on the register. The power relates to a period as well as a date as an exemptions notice to stop a lease from converting may be recalled at any time. In these cases, a specific date might be

³ See <http://www.gro-scotland.gov.uk/statistics/publications-and-data/life-expectancy/life-expectancy-at-scotland-level/index.html>

inappropriate as the recall of the exemption (and any subsequent notices or agreements) might occur after the specific date.

45. The effect of section 75(5)(b) is that registrations of notices or agreements determined registrable by the court or the Lands Tribunal may only take place if the application to the court or the Lands Tribunal was made during a period specified by order made by the Scottish Ministers. Again, the purpose of this provision is to provide longer-term certainty.

Choice of procedure

46. By virtue of section 79(3), orders made under this power are subject to annulment in pursuance of a resolution of the Scottish Parliament. It is considered that the powers here relate to straightforward matters and, as a result, that negative resolution procedure provides an appropriate balance between expedition and convenience on the one hand and, on the other hand, the need for scrutiny of a provision of this nature.

Section 78(1) - Power to make supplementary, incidental, consequential, transitional, transitory or saving provision

Power conferred on: Scottish Ministers
Power exercisable by: order made by statutory instrument
Parliamentary procedure: Negative/affirmative

Provision

47. Section 78(1) creates a power for Scottish Ministers to make by order such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in connection with this Act.

Reasons for taking powers

48. The reason for the need for supplementary, incidental and consequential provision is the nature of this Bill: it is considered necessary to allow flexibility if further changes are found to be necessary as a result of provision in the Bill. This Bill is dealing with a complex area of property law. It is one of a series of law reform bills. As well as legislation passed by the Scottish Parliament (e.g. the Abolition of Feudal Tenure etc. (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003), the Bill also interacts with older legislation passed before devolution such as the Land Registration (Scotland) Act 1979 and the Land Tenure Reform (Scotland) Act 1974. The Bill will need to work with this previous legislation.

49. Transitional provisions may be required to ensure, for example, that the conversion of leases to ownership (which involves a change in registration status) can work smoothly.

50. Transitory provisions may be required to ensure, for example, that any amendments to the definition of “game” made by the Wildlife and Natural Environment (Scotland) Bill currently going through Parliament work effectively with the Long Leases (Scotland) Bill.

51. Savings provision may be required as tenants who choose to opt out of conversion can recall that exemption at any time (section 65 of the Bill refers – this follows the Scottish Law Commission report at paragraphs 7.10 to 7.15). Given the potential long shelf-life of the Bill, savings provisions might be needed so that leases converting some time after the appointed day can convert in accordance with the Bill.

Choice of procedure

52. By virtue of section 78 itself, orders made under this power are subject to annulment in pursuance of a resolution of the Scottish Parliament, unless the order adds to, replaces or omits any part of the text of an Act. In these cases, a draft of the instrument would need to be laid before, and approved by resolution of, the Scottish Parliament. This reflects the need for a high level of Parliamentary scrutiny when amendments to primary legislation are proposed. It is considered that this provides the appropriate level of parliamentary scrutiny for the powers conferred as it will provide the appropriate degree of parliamentary scrutiny where primary legislation is being amended but will strike the appropriate balance between expedition and convenience on the one hand and, on the other hand, the need for parliamentary scrutiny where subordinate legislation is being amended.

Section 80(2) - Power in relation to commencement

Power conferred on: Scottish Ministers
Power exercisable by: order made by statutory instrument
Parliamentary procedure: none

Provision

53. Section 80(2) allows Scottish Ministers, by order, to appoint a day when provisions of the Bill should come into force. By virtue of section 8 of the Interpretation and Legislative Reform (Scotland) Act 2010, this power may be exercised so as to appoint different days for different purposes (including different days for different provisions).

54. Section 70 (extinction of right of irritancy in certain leases) comes into force on Royal Assent. This follows a recommendation by the Scottish Law Commission (at paragraph 3.29 of the Report) and is on similar lines to section 53(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 in relation to the protection from irritancy given to feus.

Reasons for taking powers

55. The power is taken so that provisions can be commenced to implement the Bill.

Choice of procedure

56. As is the usual practice, no provision is made for laying the order in Parliament as the power is limited to commencing provisions which the Parliament has already scrutinised. The Subordinate Legislation Committee will, in terms of its remit, still have the opportunity to consider the Order.

This document relates to the Long Leases (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 10 November 2010

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