



Briefing
Conversion of 'ultra-long' leases

Updated Briefing

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On 28 November 2015, many 'ultra long leases' were automatically converted into ownership. However, the relevant Property Registers were not automatically updated, and it can be many years before steps are taken to update the title to show the correct ownership position. This briefing explains the effect of the Long Leases (Scotland) Act 2012.

The Long Leases (Scotland) Act 2012 converted the tenant's right into ownership in 'qualifying leases'. If the lease qualifies, no action was required to make conversion happen, but there are a number of practical steps that a tenant should take to ensure that their title is properly shown on the property register.

Do I have a qualifying lease?

Automatic conversion to ownership will only have occurred if your lease meets certain conditions:

- It must be registered in the Land Register or recorded in the General Register of Sasines.
- It was originally granted for a term of more than 175 years.
- If it is a lease of commercial property, it still had more than 175 years left to run as of 28 November 2015.
- If it is a lease of residential property, it still had more than 100 years left to run from that date.
- The annual rent was £100 a year or less.

It cannot be:

- A lease which includes a harbour (where there is a harbour authority).
- A lease the only purpose of which is to allow the installation and maintenance of cables or pipes.
- A lease of or including minerals of a property.

What do I need to do?

The good news is that, if conversion took place (which also means that the landlord's right of ownership of the land over which the lease is held will be extinguished), there was no need to do anything immediately. Although the relevant Property Register will not have been updated, and will continue to show the separate lease title and landlord's title, conversion will have happened.

Most former tenants who are now owners in these circumstances can however take steps to regularise the position in, broadly, one of two ways:

1. Submission of a request to the Registers for amendment of the Sasine titles or rectification of former tenants' Title Sheet in the Land Register.
2. By waiting until the property changes hands. At that point, the Registers should be told about the conversion, so that the relevant Title Sheets can be created or updated for the 'new' owner.

In either case, evidence that the lease was a qualifying lease, which is considered to have converted to ownership, and that nothing has occurred, such as irritancy of the lease which would prevent conversion, will be required.

Now that I own the property, have all the lease conditions gone?

Not necessarily. When a qualifying lease is converted to ownership, certain types of lease conditions are converted into title conditions (burdens) affecting the title to property, and so will continue to apply to the property. Generally, these will be conditions that also affect other properties.

Automatically converted lease conditions were those imposed on the property:

- Regulating the maintenance, management, reinstatement or use of other land – these automatically became facility burdens which continue to apply those maintenance and management arrangements.
- Regulating the provision of services to other land – these automatically became service burdens requiring that supply of services to be maintained.
- Conferring a power of management over a group of related properties – such conditions automatically became manager burdens entitling the new owner to be, or appoint a manager of the related properties.
- Under a common scheme on a group of related properties – these automatically became real burdens affecting the title of those related properties.

This automatic conversion of some lease conditions could well have benefited former landlords, if they own adjoining land that will benefit from these burdens.

It was also possible for other lease conditions affecting the property to be converted into title conditions, but only if the landlord served a notice prior to the conversion date. Such notices had to be registered against the property and served on the tenant when they were still the tenant. If such notices were served, they will be apparent from

an inspection of the title. It is understood that only a handful of such notices were ever registered.

It was possible to opt out of conversion to ownership if, not later than two months prior to 28 November, the tenant had voluntarily opted out of conversion by registering either a Notice Seeking Exemption or an Agreement (with the landlord) for Exemption from conversion. Very few opt-outs were actually done.

Guidance on steps to take following conversion to make sure your title is updated is available from the [Registers of Scotland](#).

If you are the tenant under a qualifying long lease which may have converted to ownership on 28 November 2015 and you require further advice on rectification, please contact your usual Shepherd and Wedderburn contact.



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