

What are common repairs and title deeds?

For Home Group Customers in Scotland

Common repairs

Together with other owners in tenement-type properties, you are responsible for the upkeep of your building's shared areas. Exactly what you are responsible for and who pays for maintenance and repairs are usually listed in your title deeds.

The deeds may also outline your fellow owners responsibilities, including whether they must give you access for repairs.

What are Title Deeds?

Title Deeds show who owns the property and what the property consists of, for example how many rooms the property has and where the land boundaries are.

A Deed of Conditions is often provided to say how the property is to be managed and maintained. If you have a Deed of Conditions this is the document you should look through to find out who is responsible for how decisions are made regarding your property.

Reading your Title Deeds

It's important to read your title deeds to fully understand the shared areas you are responsible for, exactly which area your building covers and any obligations to your neighbours.

Where to get a copy of your Title Deeds

If you don't already have a copy of your Title Deeds and Deed of Conditions, your solicitor or building society may be able to send you a copy. You can also get a copy for a small charge from Registers of Scotland at:

Registers of Scotland Customer Service Centres

Phone: 0800 169 9391

Web: www.ros.gov.uk

What's in the Title Deeds

The deeds are normally a collection of papers containing the original Title Deeds and subsequent dispositions showing later sales of the house. The information you want will most likely be in the original Deed of Conditions.

The deed will be in sections as follows:

- Details of original disposition – who sold what to whom and for how much
- Details of property such as the flat position, land boundaries, which county the property is in
- Details of property including what is common property
- Feu payments
- How you must come to agreement with other owners about repairs, when you must consult other owners and how much each owner pays for repairs
- Insurance
- The factor's duties and arrangements for using them (for flats)
- Your obligations to other owners
- Details of arbitration procedures
- What happens if people do not pay
- A final declaration that these are responsibilities which will not change when a flat is sold.

What if there are no deeds or they don't contain the information you expect?

If there is nothing in your title deeds about shared repairs or the information cannot be applied to your building, the Tenements (Scotland) Act 2004 could help. The act aims to make sure shared parts of the building are kept in good repair and applies to any building divided into two or more flats on different floors. While the act can fill gaps in your title deeds, the deeds will always take priority.

Title Conditions (Scotland) Act 2003 modernises and clarifies the law on real burdens and other title conditions that remain following the abolition of the feudal system. It sets out a framework of rules for the imposition of conditions in the system of outright ownership of land, complementing feudal abolition.

Glossary

of words you may find in the Title Deeds

Appurtenances – accessories or rights belonging to a property.

Arbiter/Arbitrator – an outsider called in to make a judgement between two disagreeing people, often a lawyer.

Assessed Rental – rateable value.

Assign – to make over or transfer.

Assignee – Person something is transferred to.

Bond – mortgage or a written obligation to pay money.

Burden – see Real Burden.

Convene – to call a meeting.

Cumulo as Cumulo Assessed Rental – all these amounts added together.

Decree – a legal order.

Delineated – outlined.

Dispose – to transfer a property to another person.

Disposition – a legal document showing that the property has been transferred to somebody else.

Easement – a right which a person may have over another person's land or property, such as the right to access a certain place or run a pipe under a neighbour's tenement.

Effect – to do something.

Effeiring – belonging to.

Egress – way out.

Execute – to carry out a task.

Exigible – the amount which must be paid.

Feu – tenure of land in perpetuity in return for continuing annual payment of a fixed sum (feu duty) to the owner of the land (feu superior). Most feus now redeemed (bought out).

Free Ish and Entry – the right to come and go.

Ground Annuals – similar to Feu duties (developed to get round the old restrictions against subfeuing).

Heritable Property – a building or piece of land that can be freely bought and sold. It also includes rights over, or connected with, land and buildings including the right of a tenant.

Instrument – piece of writing containing a contract.

Investitures – a letter etc., showing authority to do something.

Irritate – to make something null and void.

Ish – end.

Lien – a right to hold someone's property until a debt is paid.

Mean – a line dividing an uneven thing into two equal parts.

Nominee – someone who is named to carry out a task on another person's behalf and with their authority.

Pertinances – something which belongs to the property or a person.

Primo – first item or person.

Proprietor/Proprietrix – the owner.

Quarto – fourth item or person.

Quoad – as far as.

Real Conditions – obligations affecting the use and enjoyment of land, usually imposed by superiors when referring to buildings to be created on such land to define the use of the land (and hence buildings).

Real Burdens – a restriction or duty placed on heritable property or the owner of such property which can be transferred from one owner to the next.

Real Property – used in English legal terms to mean property in the form of land and buildings. In Scotland, Heritable Property is the nearest equivalent term.

Resolutive Clauses – clauses which define or sort out an issue or property.

Transmission – a transfer of property.

Secundo – second item or person.

Servitude – an obligation that runs with the property which obliges an owner to allow other people to do certain things.

Solum – the ground the property stands on.

Steading – farmed or cultivated land.

Tertio – third item or thing.

Videlicet – namely (often shortened to viz).

Warrandice – a guarantee.

Writ – a legal document.

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