



HOW TO READ YOUR TITLE DEEDS

Deeds



This leaflet gives you advice and information on reading your property deeds. It's important to know what is in your deeds following the introduction of new legislation.

WHAT ARE TITLE DEEDS?

Title Deeds show who owns the property and what the property consists of i.e. how many rooms and where the 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.

LEGISLATION

The Tenements (Scotland) Act was introduced in November 2004. It aims to make sure that communal parts of the building are kept in good repair and applies to any building that is divided into two or more flats on different floors. The Act does not override Title Deeds, but is intended to fill any gaps and replace unworkable clauses. www.opsi.gov.uk

WHERE CAN I GET MY TITLE DEEDS?

If you don't already have them your property manager, solicitor or building society may be able to send you a copy of your Title Deeds and Deed of Conditions. You can also get copies for a small charge from the Registers of Scotland at Erskine House, 68 Queen Street, Edinburgh, EH2 4NF
Tel: 0845 607 0161 Fax: 0131 200 3932

Textphone Users: 0845 607 0168
<http://www.ros.gov.uk/>

WHAT'S IN THE TITLE DEEDS

The deeds are normally a collection of papers containing the original 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 divide itself into sections as follows:

- Details of original disposition – who sold what to whom and for how much
- Details of property e.g. flat position, land boundaries, which county the property lies in
- Details of property including what is common property in flats
- 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

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WHAT'S IN THE TITLE DEEDS CONTINUED

- What happens if people do not pay
- A final declaration that these are real burdens which will not change when a flat is sold.

Your Title Deeds may also have some useful clauses governing or controlling what your neighbours can do and requiring them to give access for repairs etc. Don't assume that your neighbours title deeds will say the same as your own, particularly in older or sub-divided properties.

WHAT IF THERE ARE NO DEEDS OR THEY DON'T CONTAIN THE INFORMATION YOU EXPECT?

If there is nothing in your Title Deeds on a specific topic or if the information that is there is unworkable then the new Tenements (Scotland) Act 2004 might apply. The Tenements Act covers all buildings that are divided into 2 or more horizontal parts. However, the Title Deeds always take priority so it is important to know what is in them.

Speak to your solicitor – they should be able to advise you of when the Tenements Act will apply and what effect it will have.

Use this checklist to note down what your deeds say.

- 1 What does your building consist of?
(You could be part of a bigger plot than you think.) Even in a house, you may have obligations to neighbours.

CHECKLIST

What parts of the building are you responsible for?

- Roof.....
- Chimneys.....
- Flues.....
- Skylights.....
- Aerials.....
- Walls.....
- Drainpipes.....

- Other pipes.....
- Drains.....
- Stair windows.....
- Flat windows.....
- Stair, steps.....
- Lifts etc.....
- Hallways.....
- Closes.....
- Vennels.....
- Front gardens.....
- Back gardens.....
- Any other lands.....
- Paths.....
- Binstores.....
- Cellars.....

WHAT ABOUT MAIN DOOR FLATS?

Do main door flats have access to the stair?.....

Do main door flats have have to share cost of cleaning/ painting stair?.....

DECISION MAKING

How are decisions to be made (meetings, majority decision etc...).....

Definition of maintenance and improvements.....

Use of a factor.....

Share of costs to be paid by each flat.....

OTHER RULES

Use of house for business purposes.....

Where you can/cannot hang washing, put bins etc....

GLOSSARY OF WORDS AND PHRASES THAT MAY BE FOUND IN YOUR TITLE DEEDS

Ad Longum - at length

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

Appurtenances - accessories or rights belonging to a property.

Assign - to make over or transfer

Assignee - the person something is transferred to.

Assessed rental - rateable value.

Bond - mortgage or a written obligation to pay money.

Burden - see Real Burden.

Convene - to call a meeting.

Cumolo as Cumolo Assessed Rental - all these amounts added together.

Decree - a legal order.

Delineated - outlined

Dispone - to transfer a property to another person.

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

Easment - 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.

Execute - to carry out a task.

Egress - way out.

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 (e.g. the right of a tenant).

Instrument - piece of writing containing a contract.

Invetitures - a letter etc... showing authority to do something.

Irritate - to make something null and void.

Ish - to 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.

GLOSSARY OF WORDS AND PHRASES THAT MAY BE FOUND IN YOUR TITLE DEEDS

Pertinances - something which belongs to the property of 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.

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.

Transmission - a transfer of property.

Videlict - namely (often shortened to viz).

Warrandice - a guarantee.

Writ - a legal document.