



# Under One Roof

# Impartial advice on repairs and maintenance for flat owners in Scotland

# Your repair and maintenance responsibilities

# Your repair and maintenance responsibilities

1. Flat owner's responsibilities
2. How to find out what you are responsible for
3. When to use the Tenements Act
4. Additional rules from the Tenements Act
5. What is "maintenance"?
6. Common, Mutual and Individual Repairs

1

# Flat owners' responsibilities

# Flat owners responsibilities

- Flat owners have all the same responsibilities as other home owners - and more
- This presentation is about those **additional** responsibilities

# 2

How to find out about your responsibilities

# Know your rights and responsibilities

- These are set out in
  - your Title Deeds
  - Tenement Management Scheme (TMS) (Tenements Scotland Act 2004)



# Your Title Deeds

- You can get copies of your Deeds from the Registers of Scotland (small fee)
- Check Deeds for **every** flat - there may be small but critical differences

# Key points to check

- What are common, mutual and individual repairs
- How decisions should be made
- How costs are divided between flat owners
- Whether you must have a factor

# 3

## The Tenements (Scotland) Act 2004

# When to use the Tenements Act

- The Tenements Act steps in where Title Deeds
  - say nothing
  - are unworkable
- The Act also added some additional rules

# The Tenements Act applies to

- Any property divided into two or more parts horizontally
  - Traditional stone tenements
  - Modern apartment blocks
  - Cottage flats
  - 4-in-a-blocks
  - Conversions
  - Multi-storey and deck access flats

# What is “unworkable”

- Examples
  - Shares don't add up to 100%
  - Shares are by Rateable Value BUT flats have been divided or enlarged
- (Shares by Rateable Value is generally considered workable as you can still find out what these values were)

# 4

Additional rules from the Tenements Act  
that apply to all flats and flat owners

# Additional rules from the Tenements Act

- Duty to maintain
- Compulsory buildings insurance
- Owners remain responsible for repairs started even if they sell
- Properly made decisions are binding on those who didn't agree
- Dispute resolution by Sheriff



# “Duty to maintain”

## s8 Tenements Act Scotland 2006

- Owners have a duty to maintain their property so as to **provide support and shelter**
- Not just common repairs
- One owner can carry out appropriate repairs and recover costs from others, even if no majority agreement

# Common Insurance Obligation

- Every owner must have adequate Common Parts Buildings insurance – a **legal obligation**
- Your co-owners can ask for evidence that you have common insurance
- Your co-owners can take legal action if you don't have insurance or won't show evidence

# Repairs and flat sales

- You are responsible for any repairs started while you are an owner
- “Started” means agreed or in progress
- Your co-owners can serve a Notice of Potential Liability (NOPL)
- The NOPL makes both you and the purchaser responsible for costs – useful as your co-owners may not be able to contact you once you’ve sold
- The purchaser generally asks for a reduction in the sale price to cover the cost of repairs – they then pay your flat’s share of costs

# Binding decisions

- Properly made decisions are binding on all owners
- Any owner who did not vote for the decision can appeal to the Sheriff Court if they think decision is
  - not in best interests of owners as a group
  - unfairly prejudicial to one or more owners
- Appeal within 28 days of being notified

5

What is “Maintenance?”

# What is maintenance?

- repairs and replacement,
- cleaning,
- painting,
- other routine works,
- gardening,
- the day to day running of a tenement and
- the reinstatement of a part (but not most) of the tenement building.

**\*\* unless Title Deeds say otherwise\*\***

# 6

## Common, Mutual and Individual Repairs

# Common Repairs

## **'Common' (Scheme) Property**

- All the parts of the building where maintenance is paid for by all owners.
- Unless title deeds say otherwise.



# Common Repairs (TMS)

Building element	Exceptions
Roof, gutters, flashings	Dormer windows if added later or nothing in Deeds
Walls, foundations, DPCs	Common to the halfway point
Ground under the tenement	
Structural parts – beams, load bearing walls	

**Always check your title deeds**

# Mutual repairs

- Mutual property is
- anything used by two or more owners
- paid for equally by all who use that part
  - unless your title deeds say otherwise.

# Mutual Repairs (TMS)

Building element	Exceptions
Chimneys	
Gutters and downpipes	
Close and stairs	Anyone who has access to stairs pays for maintenance to all – even if they don't use them
Gable (cross)walls	End gable

**Always check your title deeds**

# Individual Repairs (TMS)

Building element	Exceptions
Internal walls	Duty to Maintain
Doors, windows, skylights serving only one flat	Duty to Maintain
Chimney flue serving only one flat	
Services from where they branch from common supply	
Front gardens	
<b>Always check your title deeds</b>	

# More information from [UnderOneRoof.scot](https://www.UnderOneRoof.scot)

You need internet access to follow these links

# More information from [UnderOneRoof.scot](http://UnderOneRoof.scot)

You need internet access to follow these links

More about:

[Title Deeds](#)

[Procedures](#)

[Common building insurance](#)

[Duty to maintain](#)

[Maintenance and improvements](#)

[Common repairs](#)

[Mutual repairs](#)

[Individual repairs](#)