

TITLE CONDITIONS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Conservation and Other Personal Real Burdens

Section 48: Discharge

216. This section is based on section 15. That section provides for the discharge of real burdens by obtaining a deed of discharge from the benefited proprietor(s) and registering it. This mechanism is available for the discharge of personal real burdens. The term “holder of the burden” includes a person who has right to the burden but has not completed title by registration (section 122(1)), but deduction of title may then be necessary (section 41(b)). No particular deed or form of deed is specified.
217. *Subsection (2)* makes clear that partial discharge is included. For example, a prohibition against building on a conservation site could be varied to allow the construction of a bird watching hide. The condition would still be in force, and would prevent any other types of construction.