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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 2

*(introduced by section 20(1))*

### FORM OF NOTICE OF TERMINATION

“NOTICE OF TERMINATION

**Name and address of terminator:**

*(see note for completion 1)*

**Description of burdened property:**

*(see note for completion 2)*

**Terminator’s connection with burdened property:**

*(see note for completion 3)*

**Terms of real burden(s):**

*(see note for completion 4)*

**Extent of termination:**

*(see note for completion 5)*

**Renewal date:**

*(see note for completion 6)*

**An application to the Lands Tribunal for Scotland for renewal or variation of the real burden(s) must be made by not later than the renewal date.**

**Persons to whom a copy of the notice sent:**

*(see note for completion 7)*

**Date and method of intimation:**

*(see note for completion 8)*

**I swear [or affirm] that the information contained in this notice is, to the best of my knowledge and belief, true, and that this notice has been duly intimated.**

**Signature of person so swearing [or affirming]:**

*(see note for completion 9)*

**Signature of notary public:**

**Date:**

**Certificate by Lands Tribunal for Scotland**

*(see note for completion 10).”*

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*Explanatory note*

*(This explanation has no legal effect)*

This notice, given under section 20(1) of the Title Conditions (Scotland) Act 2003, concerns real burdens which affect a [neighbouring] property (referred to in the notice as the “burdened property”), and is sent to you by the owner of that property or by some other person affected by the burdens. The sender (who is referred to in the notice and in these notes as the “terminator”) wishes to free the property of the real burdens listed in the notice.

The burdens are more than 100 years old.

If you are opposed to the freeing, you can apply to the Lands Tribunal for Scotland for the burdens to be renewed or varied. The address of the Lands Tribunal is [insert address] and their telephone number is [insert telephone number]. However, you can only apply if you are an owner of a property which, in a legal sense, takes benefit from the burden and which carries enforcement rights or if the burden is a personal real burden. For further guidance you may wish to consult a solicitor or other adviser.

[A list of other people who have been sent this notice is given in the notice itself. It is possible to make an application to the Lands Tribunal jointly with other people.]

An application to the Lands Tribunal must be made by the renewal date stated in the notice. If no application is made by then, you may lose any right which you may currently hold to enforce the burdens.

*Notes for completion of the notice*

*(These notes have no legal effect)*

- 1 The “terminator” is the person who, at any time, is seeking to terminate the real burden. Where the person who proposes to execute and register the notice of termination and so intimates is not the terminator when the notice comes to be executed, the name and address of the person executing should be appended after the name and address of the person who so intimated.
- 2 Describe the property in a way that is sufficient to identify it. Where the property has a postal address the description should include that address. Where the title has been registered in the Land Register the description should refer to the title number of the property or of the larger subjects of which the property forms part. Otherwise it should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.
- 3 Describe the terminator’s connection with the burdened property, as for example by identification as owner or tenant or by setting out the midcouple which links (or midcouples which link) the terminator to the person who last had a completed title as

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- owner. Where the circumstances mentioned in note for completion 1 arise, the description should be extended accordingly.
- 4 Identify the constitutive deed by reference to the appropriate Register, and set out the real burden in full. A single notice may be used for two or more real burdens.
- 5 If the real burden is wholly to be terminated say so; otherwise describe the extent of termination.
- 6 Insert the date by which applications for renewal or variation must be made. This can be any date, provided that it is not less than 8 weeks after the last date on which this notice is intimated (intimation by affixing being taken to be given when first the notice is affixed).
- 7 This notice (and the explanatory note) must be intimated to (a) the owner of any benefited property, (b) the holder of any personal real burden and (c) the owner of the burdened property (or, if the terminator is such an owner, any other owner of that property). Intimation can be by sending (or delivering) the notice, by affixing a conspicuous notice to the burdened property and also to a lamp post within 100 metres of that property (or to at least two lamp posts if there is more than one within that distance of that property) or by newspaper advertisement. However, affixing or advertisement cannot be used for the owner of a benefited property which lies within 4 metres of the burdened property (disregarding roads less than 20 metres wide) or for the owner of the burdened property or for any such person as is mentioned in paragraph (b) of this note and advertisement cannot be used where affixing can. Where sending or delivery is used, state (i) the name of the person concerned (if known) (ii) the address to which the notice is sent or delivered, and (iii) the address of the benefited (or burdened) property owned by that person, if different from (ii). Since evidence of sending may be required at the time of registration in the Land Register, it is recommended that the notice be sent by recorded delivery or registered post.
- 8 State the date and method of intimation. By way of example—
- (a) if notices were posted, to the persons listed in the previous note, on 25th March 2003 and advertised in the *Inverness Courier* on 4th April 2003, insert: “(a) Intimation by post on 25th March 2003; (b) Advertisement in the *Inverness Courier* on 4th April 2003”; or
  - (b) if on 12th July a notice was posted to the owner of the burdened property and otherwise intimation was given by affixing notices on that date, insert: “(a) Intimation by post on 12th July 2005; (b) Notices affixed to the burdened property and to each of two lamp posts within 100 metres of that property on 12th July 2005.”.
- 9 The terminator should not swear or affirm, or sign, until the notice has been completed (except for the certificate by the Lands Tribunal for Scotland) and duly intimated. Before signing, the terminator should swear or affirm before a notary public (or, if the notice is being completed outwith Scotland, before a person duly authorised under the local law to administer oaths or receive affirmations) that, to the best of the terminator’s knowledge and belief, all the information contained in the notice is true and that the notice has been duly intimated. The notary public should also sign. Swearing or affirming a statement which is known to be false or which is believed not to be true is a criminal offence under the False Oaths (Scotland) Act 1933 (c.20). Normally the terminator should swear or affirm, and sign, personally. If, however, the terminator is legally disabled or incapable (for example because of mental disorder) a legal representative should swear or affirm, and sign. If the terminator is not an individual (for example, if it is a copartny) a person entitled by law to sign formal documents on its behalf should swear or affirm, and sign.
- 10 There is to be endorsed before registration the certificate required by section 23(1) of the Title Conditions (Scotland) Act 2003 (asp 9).