

SCHEDULE 5

(introduced by section 36(2)(a))

FURTHER FORM OF NOTICE OF PROPOSAL TO REGISTER DEED OF VARIATION OR DISCHARGE OF COMMUNITY BURDEN: SENT VERSION

“NOTICE OF PROPOSAL TO REGISTER DEED OF VARIATION OR DISCHARGE OF COMMUNITY BURDEN

Proposer:

(see note for completion 1)

Description of affected unit:

(see note for completion 2)

Terms of community burden(s):

(see note for completion 3)

Nature of deed:

(see note for completion 4)

An application to the Lands Tribunal for Scotland for preservation of the community burden(s) must be made not later than [specify the date on which the period mentioned in section 37(1) of this Act expires].

Signature of proposer:

Date: .

Status: This is the original version (as it was originally enacted).

Explanatory note

(This explanation has no legal effect)

This notice is given under section 36(2)(a) of the Title Conditions (Scotland) Act 2003. The sender (who is referred to in the notice and in these notes as the “proposer”) wishes [to free a property of a community burden] *or* [to vary a community burden].

A deed of [discharge] *or* [variation] has already been granted by the owners of adjacent properties and a copy of it is attached. If the deed is duly registered the burden will be [discharged] *or* [varied] in relation to the affected property.

If you want to preserve such rights as you may have, you can apply to the Lands Tribunal for Scotland in that regard. 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. For further guidance you may wish to consult a solicitor or other adviser.

An application to the Lands Tribunal must be made by the 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 “proposer” is the person who is seeking to discharge or vary the community burden. Give the proposer’s name and address (or the proposer’s name and the name and address of the proposer’s agent.)
- 2 Describe the affected unit in a way that is sufficient to identify it. Where the unit 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 unit forms part. Otherwise it should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.
- 3 Identify the constitutive deed by reference to the appropriate Register and set out the community burden in full.
- 4 State whether the deed is of variation or of discharge. If the community burden is wholly to be discharged say so; otherwise describe the extent of variation or discharge.
- 5 This notice requires to be sent. 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.
- 6 There is to be endorsed on the deed before registration the certificate required by subsection (2) of section 37 of the Title Conditions (Scotland) Act 2003 (asp 9).