SCHEDULE 7

(introduced by section 20(3))

FORM OF NOTICE INTIMATING APPLICATION TO LANDS TRIBUNAL UNDER SECTION 20(1)

"NOTICE INTIMATING APPLICATION TO LANDS TRIBUNAL UNDER SECTION 20(1) OF THE ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

Superior:
(*see note for completion 1)*

Description of land which is the prospective servient tenement:
(*see note for completion 2)*

Description of land which is the prospective dominant tenement:
(*see note for completion 2*)

Terms of real burden:
(*see note for completion 3*)

Any counter-obligation:
(*see note for completion 3*)

Title to the superiority:
(*see note for completion 4*)

Title to the *dominium utile* of the prospective dominant tenement*:*
(*see note for completion 4*)

Terms of description given, in application to Lands Tribunal, of attempt to reach agreement:
(*see note for completion 5*)

Service:
(*see note for completion 6*)

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

Signature of superior:
(*see note for completion 7*)

Signature of notary public:

Date: .

Explanatory Note

(This explanation has no legal effect)

This notice is sent by your feudal superior. In this notice your property (or some part of it) is referred to as the "prospective servient tenement" and the superior's property is referred to as the "prospective dominant tenement".

At present the use of your property is subject to certain burdens and conditions enforceable by the feudal superior. The feudal system is shortly to be abolished. The feudal superior cannot satisfy any of the conditions in section 18(7) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 but is applying to the Lands Tribunal for Scotland to be allowed the right to continue to enforce the burdens and conditions, not as superior but in his capacity of owner of the prospective dominant tenement. The Lands Tribunal's order, if it is registered in the Land Register or Register of Sasines under section 20 of the 2000 Act, would allow him and his successors, as such owners, to enforce the burdens and conditions after the feudal system is abolished. He claims that there would be substantial loss or disadvantage to him as owner of the prospective dominant tenement were the real burden to be extinguished or no longer to be enforceable by him.

You may oppose his application to the Tribunal and in doing so may be eligible for Legal Aid. You would not ordinarily have to meet the superior's expenses. You are advised to consult your solicitor or other adviser if you wish to consider opposing the application or if you think that there is a mistake in this notice.

The effect of the superior registering this notice will be that the burdens and conditions to which the notice relates will continue to be burdens and conditions (though, after the feudal system is abolished, non-feudal burdens and conditions) until the order made by the Lands Tribunal in respect of the application is registered as mentioned above unless the order is registered before the feudal system is abolished in which case until the feudal system is abolished (or, if there is no such registration at all, until a date specified by the Scottish Ministers) at which time the burdens and conditions would either be saved as non-feudal burdens and conditions or would be extinguished because the superior had been unsuccessful in his application.

Notes for completion of the notice

(These notes have no legal effect)

1 Insert name and address of superior.

2 Describe the land in a way that is sufficient to enable the Keeper to identify it by reference to the Ordnance Map. Where the title to the land has been registered in the Land Register the description should refer to the relevant title number of the land or of the larger subjects of which the land forms part. Otherwise it should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.

3 Specify by reference to the Register the deed or deeds in which the real burden or counter-obligation was imposed. Set out the real burden or counter-obligation in full or so as sufficiently to identify it.

4 The superiority referred to in the box "Title to the superiority" is the superiority of land which comprises the prospective servient tenement.

Where the title—

(a) has been registered in the Land Register and the applicant is infeft, specify the title number or if he is uninfeft specify the title number and set out the midcouples or links between the person last infeft and the applicant in such terms as are sufficient to identify them;

(b) has not been registered in the Land Register and the applicant is infeft, specify by reference to the Register the deed constituting the title or if he is uninfeft specify the deed constituting the title of the person last infeft and the date of recording and set out the midcouples or links as in paragraph (a).

5 Set out in full the description which was, in pursuance of section 20(2) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, included in the application.

6 Insert either: "The applicant has sent a copy of this notice by [*specify recorded delivery mail or registered post*] to the owner of the prospective servient tenement at [*specify the address of the prospective servient tenement, or the place of residence or place of business, or the most recently known place of residence or place of business, of the owner of the servient tenement*]." or "It has not been reasonably practicable to serve a copy of this notice on the owner of the prospective servient tenement for the following reasons: [*specify the reasons*].".

7 The superior should not swear or affirm, or sign, until a copy of the notice has been sent (or otherwise) as mentioned in note 6. Before signing the superior 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 superior's knowledge and belief, all the information contained in the notice is true. 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. Normally the superior should swear or affirm, and sign, personally. If, however, the superior is legally disabled or incapable (for example, because of mental disorder) his legal representative should swear or affirm and sign. If the superior is not an individual (for example, if it is a company) a person entitled by law to sign formal documents on its behalf should swear or affirm and sign.