

# TITLE CONDITIONS (SCOTLAND) ACT 2003

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 10: Miscellaneous

#### *Section 105: Alterations to Land Register consequential upon registering certain deeds*

404. This section introduces Part 10, which is concerned with a number of miscellaneous topics. *Section 105* extends a power which is already conferred by section 5(1) of the Land Registration (Scotland) Act 1979.
405. Section 5(1) of the 1979 Act empowers the Keeper to make such consequential amendments in the Land Register as are necessary when carrying out a land registration process. This means that where a burden is discharged or varied, the Keeper may alter the title sheet of a **benefited** property to indicate that the enforcement rights have changed. The 1979 Act only allows the Keeper to do this where **both** the burdened and benefited property are on the Land Register (and each, as a consequence, has a title sheet). The effect of *subsection (1)* is to apply the same rule to the case where the initial registration process is in the Register of Sasines. In other words, the Keeper may now make consequential changes to the title sheet of a **benefited** property when burdens that were in its favour are discharged or varied, regardless of whether the **burdened** property is on the Land Register or the Register of Sasines. If the benefited property were also on the Register of Sasines, then no consequential amendments could be made, as there would be no title sheet to amend.
406. *Subsection (2)* imposes a duty on the Keeper to make consequential changes to the Land Register in limited circumstances. These circumstances arise when the document which effects the change requires to be dual registered, that is to be registered against both the benefited and the burdened property. The deeds or notices in all the sections mentioned in *subsection (2)* all require to be dual registered.
407. For the purposes of the present Act, this power to make consequential amendments is required only in the two circumstances set out in *subsection (3)*. The first concerns, mainly, deeds and other documents which vary or extinguish burdens (the reference in paragraph (a) to ‘renews, reallots, preserves or imposes’ refers back to the wording in other provisions, for example an order granted by the Lands Tribunal under section 90(1)(b) would renew a real burden whereas registration of a notice under section 18 of the 2000 act would “reallot” the right to enforce the burden. The second situation concerns division of the benefited or burdened property. If, as sometimes, division affects the distribution of rights or, as the case might be, liabilities in relation to real burdens (for which see sections 12 and 13), the Keeper might wish to note the change on the title sheet of property other than the one which is being conveyed.