

# TITLE CONDITIONS (SCOTLAND) ACT 2003

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 10: Miscellaneous**

#### ***Section 115: Further provision as respects notices of preservation or of converted servitude***

485. This section contains some supplementary rules in relation to notices of preservation (section 50) and of converted servitude (section 80).
486. *Subsections (2) and (3)* are based on section 41(3) and (4) of the 2000 Act. They impose a duty, in the normal case, to send a copy of the notice (and explanatory note) to the owner of the burdened property. Normal service will be by post and must precede registration. The notice must contain a statement about service, or an explanation as to why service was not reasonably practicable. Further provisions about sending are contained in section 124.
487. *Subsection (4)* allows all real burdens or servitudes contained in any particular constitutive deed to be included in a single notice.
488. *Subsection (5)* is based on section 43(1) of the 2000 Act and relieves the Keeper from having to verify that the notice was duly sent to the owner of the burdened property.
489. A notice which is incomplete or inaccurate may be rejected by the Keeper. Such a rejection might be challenged in the Lands Tribunal or the courts. *Subsections (6) to (8)* are based on section 45 of the 2000 Act. They allow registration outwith the ten year period in circumstances where a notice has been wrongly rejected by the Keeper. The notice would have to be registered within two months of the determination that the notice was in actual fact registrable.