

# TITLE CONDITIONS (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Transitional: Implied Rights of Enforcement**

##### ***Section 55: Grant of deed of variation or discharge of community burdens relating to sheltered or retirement housing: community consultation notice***

259. *Section 55* imposes a requirement for consultation before a deed of variation or discharge is granted under section 33 in relation to properties in sheltered or retirement housing. This applies to both deeds granted under section 33(1) and 33(2).
260. *Subsection (1)* requires the proposal to be intimated to all the owners of the units within the community. *Subsection (2)* states how intimation is to be given. A community consultation notice must be sent. There is a form for a community consultation notice given in schedule 8.
261. *Subsection (3)* provides that the deed of variation or discharge must not be granted before the consultation period expires. The consultation period must be at least three weeks. The date on which it expires must be given in the notice (see schedule 8) and the period does not start to run until the all owners have been given intimation of the proposal.
262. *Subsection (4)* means that before submitting the deed of variation or discharge for registration the person giving intimation of the proposal must swear or affirm before a notary public (and endorse the deed accordingly) as to the date on which the consultation period expires and that section 55 has been complied with.
263. *Subsection (5)* means that where the person giving intimation is unable to swear or affirm as required by subsection (4) due to legal disability or incapacity then a legal representative of that person may so swear or affirm and also that where the person is a legal persona rather than an individual that an authorised person may so swear or affirm.