

Status: Point in time view as at 03/04/2003.

Changes to legislation: Title Conditions (Scotland) Act 2003 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 04/04/2003

SCHEDULE 1

(introduced by section 6(2))

FORM IMPORTING TERMS OF TITLE CONDITIONS

Commencement Information

- I1** Sch. 1 wholly in force; Sch. 1 in force for certain purposes at 4.4.2003 see s. 129(2)(5); Sch. 1 otherwise in force at 28.11.2004 by S.S.I. 2003/456, art. 2

There are imported the terms of the title conditions specified in [*refer to the deed of conditions in such terms as shall be sufficient to identify it and specify the register in which it is registered and the date of registration*].

VALID FROM 23/10/2004

[^{F1}SCHEDULE 1A

(introduced by section 10(2A))

FORM OF NOTICE OF POTENTIAL LIABILITY FOR COSTS

Textual Amendments

- F1** Sch. 1A inserted (23.10.2004) by Tenements (Scotland) Act 2004 (asp 11), ss. 25, 34(3), Sch. 4 para. 20 (with s. 33)

“NOTICE OF POTENTIAL LIABILITY FOR COSTS

This notice gives details of certain maintenance or work carried out in relation the property specified in the notice. The effect of the notice is that a person may, on becoming the owner of the property, be liable by virtue of section 10(2A) of the Title Conditions (Scotland) Act 2003 (asp 9) for any outstanding costs relating to the maintenance or work.

Property to which the notice relates:

(see note 1 below)

Description of the maintenance or work to which notice relates:

(see note 2 below)

Person giving notice:

(see note 3 below)

Signature:

(see note 4 below)

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Date of signing:”

Notes for completion

(These notes are not part of the notice)

- 1 Describe the property in a way that is sufficient to identify it. Where the property has a postal address, the description must include that address. Where title to the property has been registered in the Land Register of Scotland, the description must refer to the title number of the property or of the larger subjects of which it forms part. Otherwise, the description should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.
- 2 Describe the maintenance or work in general terms.
- 3 Give the name and address of the person applying for registration of the notice (“the applicant”) or the applicant’s name and the name and address of the applicant’s agent.
- 4 The notice must be signed by or on behalf of the applicant.]

SCHEDULE 2

(introduced by section 20(1))

FORM OF NOTICE OF TERMINATION

Commencement Information

- I2** [Sch. 2](#) wholly in force; [Sch. 2](#) in force for certain purposes at 4.4.2003 see [s. 129\(2\)\(5\)](#); [Sch. 2](#) otherwise in force at 28.11.2004 by [S.S.I. 2003/456](#), [art. 2](#)

SCHEDULE 3

(introduced by section 21(2)(b))

FORM OF AFFIXED NOTICE RELATING TO TERMINATION

Commencement Information

- I3** [Sch. 3](#) wholly in force; [Sch. 3](#) in force for certain purposes at 4.4.2003 see [s. 129\(2\)\(5\)](#); [Sch. 3](#) otherwise in force at 28.11.2004 by [S.S.I. 2003/456](#), [art. 2](#)

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VALID FROM 28/11/2004

SCHEDULE 4

(introduced by section 34(2)(a))

FORM OF NOTICE OF PROPOSAL TO REGISTER DEED OF VARIATION OR DISCHARGE

VALID FROM 28/11/2004

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

VALID FROM 28/11/2004

SCHEDULE 6

(introduced by section 36(2)(b))

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

VALID FROM 28/11/2004

SCHEDULE 7

(introduced by section 50(1))

FORM OF NOTICE OF PRESERVATION

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VALID FROM 28/11/2004

SCHEDULE 8
(introduced by section 55(2))
COMMUNITY CONSULTATION NOTICE

VALID FROM 28/11/2004

SCHEDULE 9
(introduced by section 80(4))
FORM OF NOTICE OF CONVERTED SERVITUDE

VALID FROM 28/11/2004

SCHEDULE 10
(introduced by section 83(1)(a))
FORM OF UNDERTAKING

SCHEDULE 11
(introduced by section 90(3))
TITLE CONDITIONS NOT SUBJECT TO DISCHARGE BY LANDS TRIBUNAL

Commencement Information

I4 [Sch. 11](#) wholly in force; [Sch. 11](#) in force for certain purposes at 4.4.2003 see [s. 129\(2\)\(3\)](#); [Sch. 11](#) otherwise in force at 28.11.2004 by [S.S.I. 2003/456](#), [art. 2](#)

- 1 An obligation, however constituted, relating to the right to work minerals or to any ancillary rights in relation to minerals (“minerals” and “ancillary rights” having the same meanings as in the Mines (Working Facilities and Support) Act 1966 (c. 4)).
- 2 In so far as enforceable by or on behalf of—

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- 3
- (a) the Crown, an obligation created or imposed for naval, military or air force purposes; or
 - (b) the Crown or any public or international authority, an obligation created or imposed—
 - (i) for civil aviation purposes; or
 - (ii) in connection with the use of land as an aerodrome.
- An obligation created or imposed in or in relation to a lease of—
- (a) an agricultural holding (as defined in section 1(1) of the Agricultural Holdings (Scotland) Act 1991 (c. 55));
 - (b) a holding (within the meaning of the Small Landholders (Scotland) Acts 1886 to 1931); or
 - (c) a croft (within the meaning of the Crofters (Scotland) Act 1993 (c. 44)).

SCHEDULE 12

(introduced by section 107(11))

FORM OF APPLICATION FOR RELEVANT CERTIFICATE

SCHEDULE 13

(introduced by section 114(6))

AMENDMENT OF ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

- 1 The 2000 Act shall be amended in accordance with the following paragraphs.
- 2 In section 17 (extinction of superior's rights)—
- (a) in subsection (1), after the word—
 - (i) “18” there shall be inserted “ to 18C ”;
 - (ii) “27,” there shall be inserted “ 27A, ”;
 - (iii) “28,” there shall be inserted “ 28A, ”; and
 - (iv) “Act” there shall be inserted “ and to sections 52 to 56 (which make provision as to common schemes, facility burdens and service burdens) and 63 (which makes provision as to manager burdens) of the Title Conditions (Scotland) Act 2003 (asp 9) ”,and at the end of paragraph (b) there shall be added other than in that person's capacity as owner of land or as holder of a conservation burden, health care burden or economic development burden; and
 - (b) in subsection (3), after paragraph (a) there shall be inserted—
 - “(aa) a right of enforcement held by virtue of any of the provisions mentioned in subsection (1) above;”.
- 3 In section 18 (reallotment of real burden by nomination of new dominant tenement)—
- (a) in subsection (1), at the beginning there shall be inserted “ Without prejudice to sections 18A to 18C of this Act, ”;

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- (b) in subsection (6), at the beginning there shall be inserted “ Subject to subsection (6A) below, ”;
- (c) after subsection (6) there shall be inserted—
- “(6A) Such compliance as is mentioned in subsection (6) above shall not be effective to preserve any right to enforce a manager burden (“manager burden” being construed in accordance with section 63(1) of the Title Conditions (Scotland) Act 2003 (asp 9)).”; and
- (d) in subsection (7)(b)(i), after the word “right” there shall be inserted “(other than any sporting rights, as defined by section 65A(9) of this Act) ”.
- 4 In section 20 (reallotment of real burden by order of Lands Tribunal)—
- (a) in subsection (1), the words from “within” to “ends” are repealed; and
- (b) in subsection (7)—
- (i) in paragraph (a), for the words “substantial loss or disadvantage to the applicant as owner (taking him to be such)” there shall be substituted “ material detriment to the value or enjoyment of the applicant’s ownership (taking him to have ownership) ”; and
- (ii) paragraph (b), and the word “or” which immediately precedes that paragraph, are repealed.
- 5 In section 25 (counter-obligations on reallotment)—
- (a) for the words “ , 20 or 23 ” there shall be substituted “ or 20 ”;
- (b) after the word “Act” there shall be inserted the words “ or under section 56 or 63 of the Title Conditions (Scotland) Act 2003 (asp 9) (which make provision, respectively, as to facility burdens and service burdens and as to manager burdens) ”; and
- (c) for the words from “(as the case may be)” to the end there shall be substituted “ reallotment is effected ”.
- 6 In section 27 (notice preserving right to enforce conservation burden)—
- (a) in subsection (1), after the words “Act; and” there shall be inserted “ , without prejudice to section 27A(1) of this Act, ”; and
- (b) in subsection (3)(a), for the words “26 of this Act” there shall be substituted “ 38 of the Title Conditions (Scotland) Act 2003 (asp 9) (which makes provision generally as respects conservation burdens) ”.
- 7 In section 42 (further provision as respects certain sections of that Act which relate to real burdens)—
- (a) in each of subsections (1)(a), (3) and (4)(a), after the word—
- (i) “18,” there shall be inserted “ 18A, 18B, 18C, ”; and
- (ii) “27” there shall be inserted “ , 27A ”; and
- (b) at the end there shall be added—
- “(5) Nothing in this Part requires registration against land prospectively nominated as a dominant tenement but outwith Scotland.”.
- 8 In section 43 (notices and agreements under certain sections: extent of Keeper’s duty)—
- (a) in each of subsections (1) and (2)(a), after the word—

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	<p>(i) “18,” there shall be inserted “ 18A, 18B, 18C, ”; and</p> <p>(ii) “27” there shall be inserted “ , 27A ”;</p> <p>(b) in subsection (2), after paragraph (b) there shall be inserted—</p> <p>“(bb) section 18B or 18C of this Act, the Keeper shall not be required to determine whether—</p> <p>(i) the requirements of subsection (1) of the section in question are satisfied; or</p> <p>(ii) the statement made in pursuance of subsection (2)(e) of the section in question is correct;”;</p> <p>(c) in subsection (3)(a), after—</p> <p>(i) the words “18(6),” there shall be inserted “ 18A(5), 18B(3), 18C(3), ”; and</p> <p>(ii) the word “28” there shall be inserted “ , 28A ”.</p>
9	In section 46(2) (discretion of Keeper in relation to entries in title sheet), for the word “enforceable” there shall be substituted “ subsisting ”.
10	<p>In section 49 (interpretation of Part 4)—</p> <p>(a) in the definition of “conservation body”, for the words “under section 26(1) of this Act” there shall be substituted “ by order under section 38(4) of the Title Conditions (Scotland) Act 2003 (asp 9) ”;</p> <p>(b) in the definition of “conservation burden”, for the words “section 27(1)” there shall be substituted “ sections 27(1) and 27A(1) ”;</p> <p>(c) after the definition of “development value burden” and “development value” there shall be inserted—</p> <p>““economic development burden” shall be construed in accordance with section 18B(3) of this Act;</p> <p>“health care burden” shall be construed in accordance with section 18C(3) of this Act;</p> <p>“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);”;</p> <p>(d) after the definition of “notary public” there shall be inserted—</p> <p>““personal pre-emption burden” and “personal redemption burden” shall be construed in accordance with section 18A(5) of this Act”; and</p> <p>(e) in the definition of “real burden”, at the end of paragraph (b) there shall be added “ or sporting rights (as defined by section 65A(9) of this Act) ”.</p>
11	<p>In section 54 (extinction of superior’s rights and obligations <i>qua</i> superior)—</p> <p>(a) in subsection (1)—</p> <p>(i) for the words “section 60(1)” there shall be substituted “ sections 60(1) and 65A ”; and</p> <p>(ii) after the words “<i>qua</i> superior” there shall be inserted “ (including, without prejudice to that generality, sporting rights as defined by subsection (9) of that section 65A) ”; and</p> <p>(b) in subsection (3), after paragraph (a) there shall be inserted—</p>

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12	<p style="text-align: center;">“(aa) a right of enforcement held by virtue of of section 13, 33, 60(1) or 65A of this Act;”.</p> <p>In section 56 (extinction etc. of certain payments analogous to feuduty)—</p> <p>(a) in subsection (1), for the words “land obligation” there shall be substituted “title condition”; and</p> <p>(b) for subsection (3) there shall be substituted—</p> <p style="padding-left: 40px;">“(3) The definition of “title condition” in section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9) shall apply for the purposes of this section as that definition applies for the purposes of that Act.”.</p>
13	<p>In section 73 (feudal terms in enactments and documents: construction after abolition of feudal system)—</p> <p>(a) in subsection (1)—</p> <p style="padding-left: 40px;">(i) in each of paragraphs (a), (b) and (c), at the end, there shall be added “before that day”;</p> <p style="padding-left: 40px;">(ii) the word “or” which immediately follows paragraph (b) is repealed; and</p> <p style="padding-left: 40px;">(iii) for the words “before the appointed day, then” there shall be substituted “; or</p> <p style="padding-left: 80px;">(d) in the Land Register of Scotland or in—</p> <p style="padding-left: 120px;">(i) a land certificate;</p> <p style="padding-left: 120px;">(ii) a charge certificate; or</p> <p style="padding-left: 120px;">(iii) an office copy,</p> <p style="padding-left: 80px;">issued, whether or not before that day, under the Land Registration (Scotland) Act 1979 (c. 33),</p> <p style="padding-left: 40px;">then”;</p> <p>(b) in subsection (2)—</p> <p style="padding-left: 40px;">(i) the existing words “in any document executed before that day” shall become paragraph (a);</p> <p style="padding-left: 40px;">(ii) after that paragraph there shall be inserted the word “ or ” and the following paragraph—</p> <p style="padding-left: 80px;">“(b) in the Land Register of Scotland or in any certificate or copy such as is mentioned in subsection (1)(d) above (whenever issued),”; and</p> <p style="padding-left: 40px;">(iii) for the words “19, 20, 23, 28 or, as the case may be, 60 of this Act” there shall be substituted “ 18A, 18B, 18C, 19, 20, 28, 28A or 60 of this Act or section 56 of the Title Conditions (Scotland) Act 2003 (asp 9) (facility burdens and service burdens) ”; and</p> <p>(c) after subsection (2) there shall be added—</p> <p style="padding-left: 40px;">“(2A) In construing, after the appointed day and in relation to a right enforceable on or after that day, a document, or entry in the Land Register, which—</p> <p style="padding-left: 80px;">(a) sets out the terms of a real burden; and</p> <p style="padding-left: 80px;">(b) is not a document or entry references in which require to be construed as mentioned in subsection (2) above,</p>

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- any provision of the document or entry to the effect that a person other than the person entitled to enforce the burden may waive compliance with, or mitigate or otherwise vary a condition of, the burden shall be disregarded.”.
- 14 In section 75 (saving for contractual rights) the existing words become subsection (1) and after that subsection there is added—
- “(2) In construing the expression “parties to the grant” in subsection (1) above, any enactment or rule of law whereby investiture is deemed renewed when the parties change shall be disregarded.”.
- 15 In section 77 (short title and commencement)—
- (a) in subsection (2)(a), for the words “63 to” there shall be substituted “ 64, 65, ”; and
- (b) in subsection (4)(a), for the words “and 47 to 49” there shall be substituted “ , 47 to 49, 63 and 65A ”.
- 16 After schedule 5 there shall be inserted—

“SCHEDULE 5A

(introduced by section 18A(1))

FORM OF NOTICE PROSPECTIVELY CONVERTING REAL BURDEN INTO PERSONAL PRE-EMPTION BURDEN OR PERSONAL REDEMPTION BURDEN

“NOTICE PROSPECTIVELY CONVERTING REAL BURDEN INTO PERSONAL PRE-EMPTION BURDEN OR PERSONAL REDEMPTION BURDEN

Superior:

(see note for completion 1)

Description of land which is to be servient 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)

Service:

(see note for completion 5)

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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 6)

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 (prospectively) as the “servient tenement”.

By this notice the feudal superior asserts that at present your property is subject to a right of pre-emption [or of redemption] enforceable by him and claims the right to continue to enforce it not as superior but in a personal capacity. The notice, if it is registered in the Land Register or Register of Sasines under section 18A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, will allow him to enforce the right after the feudal system is abolished (which will be shortly).

If you think that there is a mistake in this notice or if you wish to challenge it, you are advised to contact your solicitor or other adviser.

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 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 appropriate 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 refer to the deed in such a way as to identify the real burden or counter-obligation.
- 4 Where the title has been registered in the Land Register of Scotland and the superior is—
 - (a) registered as proprietor, specify the title number;
 - (b) not so registered, specify the title number and set out the midcouples or links between the person last registered and the superior so as sufficiently to identify them.

Where the title has not been registered in the Land Register and the superior—

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- (a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;
- (b) does not have a recorded title, either—
- (i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person with the last recorded title and set out the midcouples or links between that person and the superior so as sufficiently to identify them; or
 - (ii) if there is no such deed, specify the nature of the superior’s title.
- 5 Do not complete until a copy of the notice has been sent to the owner of the prospective servient tenement (except in a case where this is not reasonably practicable). Then insert whichever is applicable of the following:
- “The superior has sent a copy of this notice by [*specify whether by recorded delivery or registered post or by ordinary post*] on [*date of posting*] to the owner of the prospective servient tenement at [*state address*].”; or
- “It has not been reasonably practicable to send a copy of this notice to the owner of the prospective servient tenement for the following reason: [*specify the reason*]”.
- 6 The superior should not swear or affirm, or sign, until a copy of the notice has been sent (or otherwise) as mentioned in note 5. 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.

SCHEDULE 5B

(introduced by section 18B(1))

FORM OF NOTICE PROSPECTIVELY CONVERTING REAL BURDEN INTO ECONOMIC DEVELOPMENT BURDEN

“NOTICE PROSPECTIVELY CONVERTING REAL BURDEN INTO ECONOMIC DEVELOPMENT BURDEN

Superior:

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(see note for completion 1)

Description of land which is to be servient tenement:

(see note for completion 2)

Terms of real burden:

(see note for completion 3)

Statement that purpose was to promote economic development:

(with supporting evidence: see note for completion 3)

Any counter obligation:

(see note for completion 3)

Title to the superiority:

(see note for completion 4)

Service:

(see note for completion 5)

Signature on behalf of superior:

Date: .”

Explanatory Note

(This explanation has no legal effect)

This notice is sent by your feudal superior; that is to say by [the Scottish Ministers] or [specify local authority].

By this notice the feudal superior asserts that at present your property is subject to a real burden enforceable by the superior and claims both the right to continue to enforce it, not as superior but in a personal capacity, and that the real burden is for the purpose of promoting economic development. The notice, if it is registered in the Land Register or Register of Sasines under section 18B of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, will allow the superior to enforce that right after the feudal system is abolished (which will be shortly).

If you think that there is a mistake in this notice or if you wish to challenge it, you are advised to contact your solicitor or other adviser.

Notes for completion of the notice

(These notes have no legal effect)

- 1 Insert “ the Scottish Ministers ” or as the case may be the name and address of the local authority.
- 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

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- 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 appropriate Register the deed or deeds in which the real burden or counter-obligation was imposed. Set out the terms of the real burden, or as the case may be the terms of the counter-obligation, in full or refer to the deed in such a way as to identify the real burden or counter-obligation. Provide the statement specified and set out any information which supports it.
- 4 Where the title has been registered in the Land Register of Scotland and the superior is—
- (a) registered as proprietor, specify the title number;
 - (b) not so registered, specify the title number and set out the midcouples or links between the person last registered and the superior so as sufficiently to identify them.
- Where the title has not been registered in the Land Register and the superior—
- (a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;
 - (b) does not have a recorded title, either—
 - (i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person with the last recorded title and set out the midcouples or links between that person and the superior so as sufficiently to identify them; or
 - (ii) if there is no such deed, specify the nature of the superior's title.
- 5 Do not complete until a copy of the notice has been sent to the owner of the prospective servient tenement (except in a case where such sending is not reasonably practicable). Then insert whichever is applicable of the following:
- “The superior has sent a copy of this notice by [*specify whether by recorded delivery or registered post or by ordinary post*] on [*date of posting*] to the owner of the prospective servient tenement at [*state address*].”; or
- “It has not been reasonably practicable to send a copy of this notice to the owner of the prospective servient tenement and the reason is that: [*specify the reason*].”

SCHEDULE 5C

*(introduced by section 18C(1))*FORM OF NOTICE PROSPECTIVELY CONVERTING
REAL BURDEN INTO HEALTH CARE BURDEN

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**“NOTICE PROSPECTIVELY CONVERTING
 REAL BURDEN INTO HEALTH CARE BURDEN**

Superior:

(see note for completion 1)

Description of land which is to be servient tenement:

(see note for completion 2)

Terms of real burden:

(see note for completion 3)

Statement that purpose was to promote the provision of facilities for health care:

(with supporting evidence: see note for completion 3)

Any counter obligation:

(see note for completion 3)

Title to the superiority:

(see note for completion 4)

Service:

(see note for completion 5)

Signature on behalf of superior:

Date: .”

Explanatory Note

(This explanation has no legal effect)

This notice is sent by your feudal superior; that is to say by [the Scottish Ministers] or [specify National Health Service trust].

By this notice the feudal superior asserts that at present your property is subject to a real burden enforceable by the superior and claims both the right to continue to enforce it, not as superior but in a personal capacity, and that the real burden is for the purpose of promoting the provision of facilities for health care. The notice, if it is registered in the Land Register or Register of Sasines under section 18C of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, will allow the superior to enforce that right after the feudal system is abolished (which will be shortly).

If you think that there is a mistake in this notice or if you wish to challenge it, you are advised to contact your solicitor or other adviser.

Notes for completion of the notice

(These notes have no legal effect)

Status: Point in time view as at 03/04/2003.

Changes to legislation: Title Conditions (Scotland) Act 2003 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1	Insert “ the Scottish Ministers ” or as the case may be the name and address of the National Health Service trust.
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 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 appropriate Register the deed or deeds in which the real burden or counter-obligation was imposed. Set out the terms of the real burden, or or as the case may be the terms of the counter-obligation, in full or refer to the deed in such a way as to identify the real burden or counter-obligation. Provide the statement specified and set out any information which supports it.
4	<p>Where the title has been registered in the Land Register of Scotland and the superior is—</p> <ul style="list-style-type: none">(a) registered as proprietor, specify the title number;(b) not so registered, specify the title number and set out the midcouples or links between the person last registered and the superior so as sufficiently to identify them. <p>Where the title has not been registered in the Land Register and the superior—</p> <ul style="list-style-type: none">(a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;(b) does not have a recorded title, either—<ul style="list-style-type: none">(i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person with the last recorded title and set out the midcouples or links between that person and the superior so as sufficiently to identify them; or(ii) if there is no such deed, specify the nature of the superior’s title.
5	<p>Do not complete until a copy of the notice has been sent to the owner of the prospective servient tenement (except in a case where such sending is not reasonably practicable). Then insert whichever is applicable of the following:</p> <p>“The superior has sent a copy of this notice by [<i>specify whether by recorded delivery or registered post or by ordinary post</i>] on [<i>date of posting</i>] to the owner of the prospective servient tenement at [<i>state address</i>].”; or</p> <p>“It has not been reasonably practicable to send a copy of this notice to the owner of the prospective servient tenement and the reason is that: [<i>specify the reason</i>].”</p>
17	In schedule 8 (form of notice preserving conservation body’s or Scottish Ministers' right to real burden), for note 1 of the notes for completion of the notice there shall be substituted—

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18	<p>“1 In the case of a conservation body, insert the year and number of the relevant statutory instrument and the name and address of that body.”.</p> <p>After schedule 8 there shall be inserted—</p>		
<p>“SCHEDULE 8A <i>(introduced by section 27A(1))</i></p> <p>FORM OF NOTICE NOMINATING CONSERVATION BODY OR SCOTTISH MINISTERS TO HAVE TITLE TO ENFORCE REAL BURDEN</p>			
<p>“NOTICE NOMINATING CONSERVATION BODY OR SCOTTISH MINISTERS TO HAVE TITLE TO ENFORCE REAL BURDEN</p>			
<p>Superior:</p> <p>Nominee (being a conservation body or the Scottish Ministers): <i>(see note for completion 1)</i></p> <p>Description of land subject to the real burden: <i>(see note for completion 2)</i></p> <p>Terms of real burden: <i>(see note for completion 3)</i></p> <p>Any counter-obligation: <i>(see note for completion 3)</i></p> <p>Title to the superiority: <i>(see notes for completion 4 and 5)</i></p> <p>Service: <i>(see note for completion 6)</i></p>			
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Signature of superior: <i>(see note for completion 7)</i></p> <p>Signature of superior’s witness: Name and address of witness:</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Signature of consenting nominee: <i>(see note for completion 8)</i></p> <p>Signature of nominee’s witness: Name and address of witness:</p> </td> </tr> </table>		<p>Signature of superior: <i>(see note for completion 7)</i></p> <p>Signature of superior’s witness: Name and address of witness:</p>	<p>Signature of consenting nominee: <i>(see note for completion 8)</i></p> <p>Signature of nominee’s witness: Name and address of witness:</p>
<p>Signature of superior: <i>(see note for completion 7)</i></p> <p>Signature of superior’s witness: Name and address of witness:</p>	<p>Signature of consenting nominee: <i>(see note for completion 8)</i></p> <p>Signature of nominee’s witness: Name and address of witness:</p>		
<p>Date: .”</p>			

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Explanatory note

(This explanation has no legal effect)

This notice is sent by your feudal superior.

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 intends to nominate a conservation body or the Scottish Ministers to have title to enforce certain of those burdens (referred to prospectively as “conservation burdens”) when he ceases to have such title. These are burdens which have been imposed in the public interest for the preservation or protection either of architectural or historic characteristics of land or of some other special characteristic of land derived from the flora, fauna or general appearance of the land. By virtue of this notice the nominee would have the right to enforce a conservation burden in the capacity of conservation body or of the Scottish Ministers, as the case may be. The notice, if it is registered in the Land Register of Scotland or recorded in the Register of Sasines under section 27A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, will allow the burden to be so enforced after the feudal system has been abolished.

If you think there is a mistake in this notice or if you wish to challenge it, you are advised to consult your solicitor or other adviser.

Notes for completion of the notice

(These notes have no legal effect)

- 1 In the case of a conservation body, insert the year and number of the relevant statutory instrument and the name and address of that body.
- 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 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 appropriate 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 refer to the deed in such a way as to identify the real burden or counter-obligation.
- 4 Where the title has been registered in the Land Register of Scotland and the superior is—
 - (a) infeft, specify the title number;
 - (b) uninfest, specify the title number and set out the midcouples or links between the person last infeft and the superior so as sufficiently to identify them.
- 5 Where the title has not been registered in the Land Register and the superior—
 - (a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;

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(b)	<p>does not have a recorded title, either—</p> <p>(i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person last infeft and set out the midcouples or links between the person last infeft and the superior so as sufficiently to identify them; or</p> <p>(ii) if there is no such deed, specify the nature of the superior’s title.</p>
6	<p>Do not complete until a copy of the notice has been sent to the owner of the land subject to the burden (except in a case where this is not reasonably practicable). Then insert whichever is applicable of the following:</p> <p>“The superior has sent a copy of this notice by [<i>specify whether by recorded delivery or registered post or by ordinary post</i>] on [<i>date of posting</i>] to the owner of the land subject to the real burden at [<i>state address</i>].”; or</p> <p>“It has not been reasonably practicable to send a copy of this notice to the owner of the land subject to the real burden for the following reason: [<i>specify the reason</i>].”</p>
7	<p>The notice should not be signed by the superior until a copy of it has been sent (or otherwise) as mentioned in note 6.</p>
8	<p>The nominee should sign, so as to indicate consent, before that copy is sent (or otherwise) as so mentioned.”.</p>
19	<p>After schedule 11 there shall be inserted—</p> <p style="text-align: center;">“SCHEDULE 11A <i>(introduced by section 65A(1))</i></p> <p style="text-align: center;">FORM OF NOTICE PROSPECTIVELY CONVERTING SPORTING RIGHTS INTO TENEMENT IN LAND</p> <p style="text-align: center;">“NOTICE PROSPECTIVELY CONVERTING SPORTING RIGHTS INTO TENEMENT IN LAND</p> <p>Superior: <i>(see note for completion 1)</i></p> <p>Description of land subject to sporting rights: <i>(see note for completion 2)</i></p> <p>Description of sporting rights: <i>(see note for completion 3)</i></p> <p>Any counter-obligation: <i>(see note for completion 3)</i></p>

Status: Point in time view as at 03/04/2003.

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Title to the superiority:

(see note for completion 4)

Service:

(see note for completion 5)

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

Signature of superior:

(see note for completion 6)

Signature of notary public:

Date: .”

Explanatory note

(This explanation has no legal effect)

This notice is sent by your feudal superior.

By it the feudal superior asserts that at present your property is subject to certain sporting rights (that is to say, to rights of fishing or game) enforceable by him as superior and he seeks to continue to enjoy those rights on a different basis: that is to say, as a tenement in land.

The notice, if it is registered in the Land Register of Scotland or recorded in the Register of Sasines under section 65A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, will have that effect when (shortly) the feudal system is abolished.

If you think there is a mistake in this notice or if you wish to challenge it, you are advised to consult your solicitor or other adviser.

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 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 appropriate Register the deed or deeds in which the sporting rights were reserved or the counter-obligation was imposed. Describe the sporting rights or set out the counter-obligation in full or refer to the deed in such a way as to identify those rights or that counter-obligation.

Status: Point in time view as at 03/04/2003.

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- 4 Where the title has been registered in the Land Register of Scotland and the superior is—
- (a) infeft, specify the title number;
 - (b) uninfeft, specify the title number and set out the midcouples or links between the person last infeft and the superior so as sufficiently to identify them.
- Where the title has not been registered in the Land Register and the superior—
- (a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;
 - (b) does not have a recorded title, either—
 - (i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person last infeft and set out the midcouples or links between the person last infeft and the superior so as sufficiently to identify them; or
 - (ii) if there is no such deed, specify the nature of the superior’s title.
- 5 Do not complete until a copy of the notice has been sent to the owner of the land subject to the sporting rights (except in a case where this is not reasonably practicable). Then insert whichever is applicable of the following:
- “The superior has sent a copy of this notice by [*specify whether by recorded delivery or registered post or by ordinary post*] on [*date of posting*] to the owner of the land subject to the sporting rights at [*state address*]”; or
- “It has not been reasonably practicable to send a copy of this notice to the owner of the land subject to the sporting rights for the following reason: [*specify the reason*]”.
- 6 The notice should not be signed by the superior until a copy of it has been sent (or otherwise) as mentioned in note 5. 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.”.

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SCHEDULE 14

(introduced by section 128(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 28/11/2004

- 1 (1) Section 3 of the Registration of Leases (Scotland) Act 1857 (assignment of recorded, or registered, leases etc.) shall be amended in accordance with this paragraph.
- (2) In subsection (2)—
- (a) the existing words “to impose conditions and make stipulations” shall become paragraph (i); and
 - (b) after that paragraph there shall be inserted the word “or” and the following paragraph—
“*(ii) to import such conditions and stipulations,*”.
- (3) After subsection (2) there shall be inserted—
- “(2A) Any person entitled to grant an assignment under this section may—
- (a) execute a deed containing such conditions, or stipulations, as may be specified in an assignment under subsection (2) above; and
 - (b) register such conditions and stipulations in the Land Register of Scotland or, as the case may be, record the deed in the Register of Sasines,
- and, subject to subsection (2C) below, on such registration or, as the case may be, recording such conditions and stipulations shall be effectual.
- (2B) “Import” in subsection (2)(ii) above means to import into itself from a deed of conditions (“deed of conditions” having the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) the terms of the conditions or stipulations; and importation in or as nearly as may be in the form set out in schedule 1 to that Act (but with the modification that for the references in that form to the terms of the title conditions there are substituted references to the terms of the conditions or stipulations) shall suffice in that regard.
- (2C) Where, notwithstanding section 3(4) of the Land Registration (Scotland) Act 1979 (c. 33) (creation of real right or obligation on date of registration etc.), a deed provides for the postponement of effectiveness of any conditions or, as the case may be, stipulations to—
- (a) a date specified in that deed (the specification being of a fixed date and not, for example, of a date determinable by reference to the occurrence of an event); or
 - (b) the date of—
 - (i) registration of an interest in land under; or
 - (ii) recording of,some other deed so specified,
- the conditions, or stipulations, shall take effect in accordance with such provision.”.

Status: Point in time view as at 03/04/2003.

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	<p>(4) In subsection (3), after the word “(2)” there shall be inserted “or (2A)”.</p> <p>(5) In subsection (4), after the word “assignment”—</p> <p>(a) where it first occurs, there shall be inserted “, or as the case may be in a deed such as is mentioned in subsection (2A) above,”; and</p> <p>(b) where it secondly occurs, there shall be inserted “, or as the case may be the deed,”.</p>
	VALID FROM 28/11/2004
2	<p>In section 138 of the Titles to Land Consolidation (Scotland) Act 1868 (use in any deed of short clauses of consent to registration), for the words “forms Nos. 1 and 2” there shall be substituted “form No.1”.</p>
	VALID FROM 28/11/2004
3	<p>(1) The Conveyancing (Scotland) Act 1924 shall be amended in accordance with this paragraph.</p> <p>(2) In section 8(5) (application of Schedule D to the Act), for the words “Schedule H of the Conveyancing (Scotland) Act 1874” there shall be substituted “schedule 1 to the Title Conditions (Scotland) Act 2003 (asp 9)”.</p> <p>(3) In section 40(2) (powers of creditor), after the word “conditions” there shall be inserted “(whether or not by creating a real burden)”.</p>
	VALID FROM 28/11/2004
4	<p>(1) The Conveyancing and Feudal Reform (Scotland) Act 1970 shall be amended in accordance with this paragraph.</p> <p>(2) In section 9 (which introduces the standard security)—</p> <p>(a) after subsection (2A) there shall be inserted—</p> <p style="padding-left: 40px;">“(2B) It shall not be competent to grant a standard security over a personal pre-emption burden or personal redemption burden (both within the meaning of Part 4 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).”;</p> <p>(b) in subsection (8)(b), for the definition of “interest in land” there shall be substituted—</p> <p style="padding-left: 40px;">““real right in land” means any such right, other than ownership or a real burden, which is capable of being held separately and to which a title may be recorded in the Register of Sasines;”</p> <p>(3) In section 19 (calling-up of standard security), in subsection (4), for the words “infest in” there shall be substituted . “ “having title to” ”</p> <p>(4) In section 19A(1) (notice to occupier of calling up), for the words “an interest” there shall be substituted . “ “land or a real right” ”</p>

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(5) In section 24(3) (application by creditor for remedies on default), for the words “an interest” there shall be substituted . “ “land or a real right” ”

VALID FROM 28/11/2004

- 5
- (1) The Prescription and Limitation (Scotland) Act 1973 shall be amended in accordance with this paragraph.
 - (2) In section 1 (prescriptive period in relation to real rights in land), in subsection (3), after the word “to”, where it fourthly occurs, there shall be inserted “real burdens,”.
 - (3) In Schedule 1 (obligations affected by prescriptive periods of five years under section 6 of the Act)—
 - (a) in paragraph 1(a)(vii), for the words “land obligation” there shall be substituted “title condition”; and
 - (b) for paragraph 4 there shall be substituted—

“4 In this Schedule, “title condition” shall be construed in accordance with section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”.
 - (4) In Schedule 3 (rights and obligations which are imprescriptible for certain purposes of the Act), in sub-paragraph (h), for the word “interest” there shall be substituted “real right”.

VALID FROM 28/11/2004

- 6
- In section 2 of the Land Tenure Reform (Scotland) Act 1974 (prohibition of new ground annuals and other periodical payments from land)—
- (a) in subsection (1), for the words “land obligation” there shall be substituted “title condition”; and
 - (b) after subsection (2) there shall be added—

“(3) In subsection (1) above, “title condition” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”.

- 7
- (1) The 1979 Act shall be amended in accordance with this paragraph.
 - (2) In each of sections 2(6) (interpretation) and 3(1) (effect of registration), for the words “sections 17, 18 and” there shall be substituted. “ section”
 - (3) In section 3(6) (special provision as respects completion of title)—
 - (a) for the words “an uninfert proprietor” there shall be substituted “an unregistered holder”;
 - (b) for the words “the uninfert proprietor” there shall be substituted “him”;
 - (c) for the word “infert” there shall be substituted “registered as entitled to the interest”; and
 - (d) for the words from “section 4” to “land”, where it secondly occurs, there shall be substituted “—

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- (a) section 4 of the Conveyancing (Scotland) Act 1924 (c. 27);
- (b) section 18A(8)(a) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5); and
- (c) section 41(a) of the Title Conditions (Scotland) Act 2003 (asp 9),

(each of which relate to completion of title) shall be of no effect in relation to such an interest in land.”.

(4) In section 6 (the title sheet), at the end there is added—

“(6) In subsections (1)(e) and (2) above, “condition” includes a servitude created by a deed registered in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9) and a rule of a development management scheme (“development management scheme” being construed in accordance with section 71 of that Act).”.

(5) In section 12 (indemnity in respect of loss)—

(a) in subsection (3), after paragraph (g) there shall be inserted—

“(gg) the loss arises from inability to enforce sporting rights converted into a tenement in land by virtue of section 65A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), unless the Keeper expressly assumes responsibility for the enforceability of those rights;”;

(b) at the end there is added—

“(5) In subsection (3)(g) above, “condition” includes a rule of a development management scheme (“development management scheme” being construed in accordance with section 71 of the Title Conditions (Scotland) Act 2003 (asp 9)).”.

(6) In section 15 (simplification of deeds relating to registered interests), for subsection (3) there shall be substituted—

“(3) It shall not be necessary, in any deed relating to a registered interest in land, to deduce title if evidence of sufficient midcouples or links between the unregistered holder and the person last registered as entitled to the interest are produced to the Keeper on registration in respect of that interest in land.”.

(7) In section 28(1) (interpretation)—

(a) in the definition of “incorporeal heritable right”—

(i) the existing words “a right to salmon fishings” shall become paragraph (a);

(ii) after that paragraph there shall be inserted the word “; or” and the following paragraph—

“(b) sporting rights (as defined by section 65A(9) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5));”;

(b) in paragraph (d) of the definition of “overriding interest”, for the words “a servitude” there shall be substituted “any servitude which was not created

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by registration in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9)”.

Modifications etc. (not altering text)

- C1** Sch. 14 para. 7 wholly in force; Sch. 14 para. 7(1)(3)(6) in force at 4.4.2003 see s. 129(2)(5); Sch. 14 para. 7 otherwise in force at 28.11.2004 by S.S.I. 2003/456, art. 2

VALID FROM 28/11/2004

8 In section 17 of the Ancient Monuments and Archaeological Areas Act 1979 (agreements concerning ancient monuments and land in their vicinity), for subsection (7) there shall be substituted—

“(7) Section 84 of the Law of Property Act 1925 (c. 20) (power of Lands Tribunal to discharge or modify restrictive covenant) shall not apply to an agreement under this section.”.

VALID FROM 28/11/2004

9 In section 23 of the Health and Social Services and Social Security Adjudications Act 1983 (arrears of contributions secured over interest in land in Scotland)—

- (a) in subsection (1)(b)—
- (i) after the word “Scotland” (and within the parentheses) there shall be inserted ““an interest in land” meaning land or,”; and
 - (ii) after the words “1970” (and within the parentheses) there shall be inserted “, a real right in land”; and
- (b) for subsection (4) there shall be substituted—

“(4) Where an interest in land (as defined in subsection (1)(b) above) over which a charging order is made is an interest to which the debtor does not have a completed title, the order shall be as valid as if the debtor had such title.”.

VALID FROM 28/11/2004

10 In Schedule 3 to the Further and Higher Education (Scotland) Act 1992 (transfer and apportionment of property)—

- (a) in paragraph 1—
- (i) in each of sub-paragraphs (2) and (3), for the words “land obligations” there shall be substituted “title conditions”; and
 - (ii) for sub-paragraph (5) there shall be substituted—

“(5) In this Schedule, “title conditions” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”; and

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(b) in paragraph 4(6), for the words “land obligations” there shall be substituted “title conditions”.

VALID FROM 28/11/2004

11 In section 16(6) of the Crofters (Scotland) Act 1993 (provisions relating to conveyance), for the words “land obligations as defined in section 1(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970” there shall be substituted “title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)”.

VALID FROM 28/11/2004

12 In section 58(1) of the Standards in Scotland’s Schools etc. Act 2000 (interpretation), in the definition of “land”, for the words “land obligations (as defined in section 2(6) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35)” there shall be substituted “title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)”.

VALID FROM 28/11/2004

13 In each of sections 1(1) (application to suspend enforcement of standard security) and 4(4) (notices to proprietors and occupiers) of the Mortgage Rights (Scotland) Act 2001, for the words “an interest” there shall be substituted “land or a real right”.

SCHEDULE 15

(introduced by section 128)

REPEALS

Commencement Information

I5 Sch. 15 wholly in force; Sch. 15 in force for certain purposes at 4.4.2003 see s. 129(2)(5); Sch. 15 otherwise in force at 28.11.2004 by S.S.I. 2003/456, art. 2

Status:

Point in time view as at 03/04/2003.

Changes to legislation:

Title Conditions (Scotland) Act 2003 is up to date with all changes known to be in force on or before 27 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.