



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 2

#### COMMUNITY BURDENS

##### *Variation, discharge etc.*

#### **34 Variation or discharge under section 33: intimation**

- (1) Where a deed of variation or discharge is granted under section 33(2) of this Act, a proposal to register that deed shall be intimated to such other owners of the units in the community as have not granted the deed.
- (2) Such intimation shall be given by sending a copy of the deed, together with—
  - (a) a notice in, or as near as may be in, the form set out in schedule 4 to this Act; and
  - (b) the explanatory note which immediately follows that form in that schedule.
- (3) Where a deed has been granted as mentioned in subsection (1) above, any person to whom intimation is given under subsection (2) above may, during the period of eight weeks beginning with the latest date on which intimation of the proposal to register the deed is so given, apply to the Lands Tribunal for preservation, unvaried, of the community burden in so far as constituted in favour of, or against, any unit not all of whose owners have granted the deed.
- (4) Subsections (2) to (4) of section 37 of this Act apply to a deed granted as mentioned in subsection (1) above as they apply in relation to a deed granted as mentioned in section 35 of this Act but with the modifications specified in subsection (5) below.
- (5) The modifications are that—
  - (a) references in the said subsections (2) and (4) to subsection (1) of that section are to be construed as references to subsection (3) above;
  - (b) the reference in the former of those said subsections to no application having been received under section 37 is to be construed as a reference to none having been received under this section; and
  - (c) the reference in the latter of those said subsections to section 36 of this Act is to be construed as a reference to subsections (1) and (2) above.

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*Status: This is the original version (as it was originally enacted).*

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- (6) For the purposes of subsection (4) of section 37 of this Act as so applied, if the person proposing to submit for registration a deed granted as mentioned in subsection (1) above is—
- (a) an individual unable by reason of legal disability, or incapacity, to swear or affirm as mentioned in the said subsection (4), then a legal representative of that person may swear or affirm;
  - (b) not an individual, then any person authorised to sign documents on its behalf may swear or affirm,
- and any reference in the said subsection (4) to the person so proposing shall be construed accordingly.