

Status: Point in time view as at 04/04/2003.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

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, ”;
 - (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 - (a) in subsection (1), the words from “within” to “ends” are repealed; and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

Status: Point in time view as at 04/04/2003.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

- 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—
- (i) “18,” there shall be inserted “ 18A, 18B, 18C, ”; and
- (ii) “27” there shall be inserted “, 27A ”;
- (b) in subsection (2), after paragraph (b) there shall be inserted—
- “(bb) section 18B or 18C of this Act, the Keeper shall not be required to determine whether—
- (i) the requirements of subsection (1) of the section in question are satisfied; or
- (ii) the statement made in pursuance of subsection (2) (e) of the section in question is correct;”;
- (c) in subsection (3)(a), after—
- (i) the words “18(6),” there shall be inserted “ 18A(5), 18B(3), 18C(3), ”; and
- (ii) the word “28” there shall be inserted “, 28A ”.
- 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 In section 49 (interpretation of Part 4)—
- (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) ”;
- (b) in the definition of “conservation burden”, for the words “section 27(1)” there shall be substituted “ sections 27(1) and 27A(1) ”;
- (c) after the definition of “development value burden” and “development value” there shall be inserted—
- ““economic development burden” shall be construed in accordance with section 18B(3) of this Act;

Status: Point in time view as at 04/04/2003.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

- “health care burden” shall be construed in accordance with section 18C(3) of this Act;
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);”;
- (d) after the definition of “notary public” there shall be inserted—
- ““personal pre-emption burden” and “personal redemption burden” shall be construed in accordance with section 18A(5) of this Act”;
- and
- (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) ”.
- 11 In section 54 (extinction of superior’s rights and obligations *qua* superior)—
- (a) in subsection (1)—
- (i) for the words “section 60(1)” there shall be substituted “ sections 60(1) and 65A ”; and
- (ii) after the words “*qua* superior” there shall be inserted “ (including, without prejudice to that generality, sporting rights as defined by subsection (9) of that section 65A) ”; and
- (b) in subsection (3), after paragraph (a) there shall be inserted—
- “(aa) a right of enforcement held by virtue of of section 13, 33, 60(1) or 65A of this Act;”.
- 12 In section 56 (extinction etc. of certain payments analogous to feuduty)—
- (a) in subsection (1), for the words “land obligation” there shall be substituted “ title condition ”; and
- (b) for subsection (3) there shall be substituted—
- “(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.”.
- 13 In section 73 (feudal terms in enactments and documents: construction after abolition of feudal system)—
- (a) in subsection (1)—
- (i) in each of paragraphs (a), (b) and (c), at the end, there shall be added “ before that day ”;
- (ii) the word “or” which immediately follows paragraph (b) is repealed; and
- (iii) for the words “before the appointed day, then” there shall be substituted “; or
- (d) in the Land Register of Scotland or in—
- (i) a land certificate;
- (ii) a charge certificate; or
- (iii) an office copy,
- issued, whether or not before that day, under the Land Registration (Scotland) Act 1979 (c. 33),
- then ”;
- (b) in subsection (2)—

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

*Changes to legislation: There are currently no known outstanding effects for the Title
Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)*

- (i) the existing words “in any document executed before that day” shall become paragraph (a);
- (ii) after that paragraph there shall be inserted the word “ or ” and the following paragraph—
- “(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
- (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
- (c) after subsection (2) there shall be added—
- “(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—
- (a) sets out the terms of a real burden; and
- (b) is not a document or entry references in which require to be construed as mentioned in subsection (2) above,
- 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:

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

(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)

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

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

Changes to legislation: *There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)*

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—

- (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.

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

*Changes to legislation: There are currently no known outstanding effects for the Title
Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)*

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:

(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

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

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 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

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

Changes to legislation: *There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)*

“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

“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]*.

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

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)

- 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 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

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

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*].”.

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—

“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.”.

18 After schedule 8 there shall be inserted—

“SCHEDULE 8A

(introduced by section 27A(1))

FORM OF NOTICE NOMINATING CONSERVATION BODY OR
SCOTTISH MINISTERS TO HAVE TITLE TO ENFORCE REAL BURDEN

“NOTICE NOMINATING CONSERVATION BODY OR SCOTTISH
MINISTERS TO HAVE TITLE TO ENFORCE REAL BURDEN

Superior:

Nominee (being a conservation body or the Scottish Ministers):

(see note for completion 1)

Description of land subject to the real burden:

(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 notes for completion 4 and 5)

Service:

(see note for completion 6)

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

<p>Signature of superior: <i>(see note for completion 7)</i></p> <p>Signature of superior’s witness:</p> <p>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:</p> <p>Name and address of witness:</p>
--	---

Date: .”

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—

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

Changes to legislation: *There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)*

- (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.
 - 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;
 - (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.
 - 6 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:
 - “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 real burden 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 real burden for the following reason: [*specify the reason*].”
 - 7 The notice should not be signed by the superior until a copy of it has been sent (or otherwise) as mentioned in note 6.
 - 8 The nominee should sign, so as to indicate consent, before that copy is sent (or otherwise) as so mentioned.”
- 19 After schedule 11 there shall be inserted—

“SCHEDULE 11A

(introduced by section 65A(1))

FORM OF NOTICE PROSPECTIVELY CONVERTING
SPORTING RIGHTS INTO TENEMENT IN LAND

“NOTICE PROSPECTIVELY CONVERTING
SPORTING RIGHTS INTO TENEMENT IN LAND

Superior:

(see note for completion 1)

Description of land subject to sporting rights:

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

(see note for completion 2)

Description of sporting rights:

(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)

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.

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

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

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.

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.”.

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

Changes to legislation: There are currently no known outstanding effects for the Title
Conditions (Scotland) Act 2003, SCHEDULE 13. (See end of Document for details)

- 20 In schedule 12 (minor and consequential amendments), in paragraph 9(17), for the word “offences” there shall be substituted “offices”.

Status:

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

Changes to legislation:

There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 13.