



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 1

#### REAL BURDENS: GENERAL

##### *Division of benefited or burdened property*

#### **12 Division of a benefited property**

- (1) Where part of a benefited property is conveyed, then on registration of the conveyance the part conveyed shall cease to be a benefited property unless in the conveyance some other provision is made, as for example—
  - (a) that the part retained and the part conveyed are separately to constitute benefited properties; or
  - (b) that it is the part retained which is to cease to be a benefited property.
- (2) Different provision may, under subsection (1) above, be made in respect of different real burdens.
- (3) For the purposes of subsection (1) above, any such provision as is referred to in that subsection shall—
  - (a) identify the constitutive deed, say where it is registered and give the date of registration;
  - (b) identify the real burdens; and
  - (c) be of no effect in so far as it relates to—
    - (i) a right of pre-emption, redemption or reversion; or
    - (ii) any other type of option to acquire the burdened property,if it is other than such provision as is mentioned in paragraph (b) of that subsection.
- (4) Subsection (1) above does not apply where—
  - (a) the property, part of which is conveyed, is a benefited property only by virtue of any of sections 52 to 56 of this Act;
  - (b) the real burdens are community burdens; or

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*Status: This is the original version (as it was originally enacted).*

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- (c) the real burdens are set out in a common deed of conditions, that is to say in a deed which sets out the terms of the burdens imposed on the part conveyed, that part being one of two or more properties on which they are or will be imposed under a common scheme.

### **13 Division of a burdened property**

Where part of a burdened property is conveyed (whether before or after the appointed day), then on registration of the conveyance the part retained and the part conveyed shall separately constitute burdened properties unless the real burden cannot relate to one of the parts, in which case that part shall, on that registration, cease to be a burdened property.