
Status: This is the original version (as it was originally enacted).

SCHEDULE 13
AMENDMENT OF ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

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)

Signature of superior:

(see note for completion 7)

Signature of consenting nominee:

(see note for completion 8)

Signature of superior’s witness:

Signature of nominee’s witness:

Name and address of witness:

Name and address of witness:

Date:

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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.

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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) uninfert, 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.”.