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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 313**

**TITLE CONDITIONS  
TENEMENTS**

**The Notice of Potential Liability for Costs  
(Discharge Notice) (Scotland) Order 2014**

*Made - - - - 13th November 2014*  
*Laid before the Scottish*  
*Parliament - - - - 17th November 2014*  
*Coming into force - - 16th December 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 10A(3B)(a) of the Title Conditions (Scotland) Act 2003<sup>(1)</sup> and section 13(3B)(a) of the Tenements (Scotland) Act 2004<sup>(2)</sup>, and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Notice of Potential Liability for Costs (Discharge Notice) (Scotland) Order 2014 and comes into force on 16th December 2014.

**Notice of discharge under the Title Conditions (Scotland) Act 2003**

2. The notice of discharge referred to in section 10A(3A) of the Title Conditions (Scotland) Act 2003 is to be in the form set out in Schedule 1.

**Notice of discharge under the Tenements (Scotland) Act 2004**

3. The notice of discharge referred to in section 13(3A) of the Tenements (Scotland) Act 2004 is to be in the form set out in Schedule 2.

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(1) 2003 asp 9 (“the 2003 Act”). Section 10A(3A) and (3B) is inserted by section 86(1) of the Housing (Scotland) Act 2014 (asp 14) (“the 2014 Act”). Section 86(1) was brought into force on 13th November 2014 by S.S.I. 2014/264 so far as is necessary to enable the Scottish Ministers to make an order under section 10A(3B)(a) of the 2003 Act.

(2) 2004 asp 11 (“the 2004 Act”). Section 13(3A) and (3B) is inserted by section 86(2) of the 2014 Act. Section 86(2) was brought into force on 13th November 2014 by S.S.I. 2014/264 so far as is necessary to enable the Scottish Ministers to make an order under section 13(3B)(a) of the 2004 Act.

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St Andrew's House,  
Edinburgh  
13th November 2014

*M J BURGESS*  
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Article 2

**FORM OF DISCHARGE NOTICE – TITLE CONDITIONS  
(SCOTLAND) ACT 2003**

**NOTICE OF DISCHARGE OF A NOTICE OF POTENTIAL LIABILITY FOR COSTS  
UNDER THE TITLE CONDITIONS (SCOTLAND) ACT 2003**

This notice is given by the owner of a burdened property in relation to which a notice of potential liability for costs has not expired, the liability for costs under section 10(2) of the Title Conditions (Scotland) Act 2003 to which the notice of potential liability relates has been fully discharged, and the person who registered the notice of potential liability for costs consents to the application for it to be discharged.

Registration of this notice discharges the notice of potential liability for costs described below as it applies to the subjects described below.

**Property to which the discharge relates:**

*(see note 1 below)*

**Details of the notice of potential liability for costs (including a description of the work or maintenance) to which the discharge relates:**

*(see note 2 below)*

**Consenting person who registered the notice of potential liability for costs:**

*(see note 3 below)*

**Signature of consenting person who registered the notice of potential liability for costs:**

*(see note 4 below)*

**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. Reference can be made to the description in the notice of potential liability for costs. 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. Include the date on which the notice of potential liability for costs was registered in the Land Register of Scotland or recorded in the General Register of Sasines. Describe the maintenance or work in the same way as it is described in the notice of potential liability for costs.

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3. Give the name and address of the person who registered the notice of potential liability for costs to which this notice of discharge relates, or that person's name and the name and address of that person's agent.

4. This notice must be signed by or on behalf of the person who registered the notice of potential liability for costs and who consents to the registration of this discharge. The signature will require to be self-proving in order to be accepted by the Keeper of the Registers of Scotland.

SCHEDULE 2

Article 3

**FORM OF DISCHARGE NOTICE – TENEMENTS (SCOTLAND)  
ACT 2004**

**NOTICE OF DISCHARGE OF A NOTICE OF POTENTIAL LIABILITY FOR COSTS  
UNDER THE TENEMENTS (SCOTLAND) ACT 2004**

This notice is given by the owner of a flat in relation to which a notice of potential liability for costs has not expired, the liability for costs under section 12(2) of the Tenements (Scotland) Act 2004 to which the notice of potential liability relates has been fully discharged, and the person who registered the notice of potential liability for costs consents to the application for it to be discharged.

Registration of this notice discharges the notice of potential liability for costs described below as it applies to the subjects described below.

**Flat to which the discharge relates:**

*(see note 1 below)*

**Details of the notice of potential liability for costs (including a description of the work or maintenance) to which the discharge relates:**

*(see note 2 below)*

**Consenting person who registered the notice of potential liability for costs:**

*(see note 3 below)*

**Signature of consenting person who registered the notice of potential liability for costs:**

*(see note 4 below)*

**Date of signing:**

*Notes for completion  
(These notes are not part of the notice)*

1. Describe the flat in a way that is sufficient to identify it. Reference can be made to the description in the notice of potential liability for costs. Where the flat has a postal address, the description must include that address. Where title to the flat has been registered in the Land Register of Scotland, the description must refer to the title number of the flat 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. Include the date on which the notice of potential liability for costs was registered in the Land Register of Scotland or recorded in the General Register of Sasines. Describe the maintenance or work in the same way as it is described in the notice of potential liability for costs.
3. Give the name and address of the person who registered the notice of potential liability for costs to which this notice of discharge relates, or that person's name and the name and address of that person's agent.
4. This notice must be signed by or on behalf of the person who registered the notice of potential liability for costs and who consents to the registration of this discharge. The signature will require to be self-proving in order to be accepted by the Keeper of the Registers of Scotland.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order prescribes the form of notices of discharge in respect of notices of potential liability for costs under the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) and the Tenements (Scotland) Act 2004 (“the 2004 Act”).

A notice of potential liability for costs may be registered against a property in accordance with section 10(2A) of the 2003 Act or section 12(3) of the 2004 Act, with the effect that an incoming owner of that property may be liable for outstanding costs relating to certain maintenance or work. The notice of potential liability expires after three years, unless it is renewed.

Section 10A(3A) of the 2003 Act and section 13(3A) of the 2004 Act, as inserted by section 86 of the Housing (Scotland) Act 2014, provide that an unexpired notice of potential liability for costs may be discharged if the liability to which it relates has been discharged and the person who registered it consents. The form of a notice of discharge is set out in Schedule 1 (in respect of the 2003 Act) and Schedule 2 (in respect of the 2004 Act).