

TITLE CONDITIONS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Real Burdens: General

Section 21: Intimation

112. Intimation is the first stage of the termination procedure.
113. *Subsection (1)* imposes a requirement to intimate the proposal to terminate the burden. Intimation must be given to the owners of all the benefited properties, to the holder of any personal real burden, (as defined in section 122(1) and, if the terminator is not the owner (or is only one of the owners), to the owner of the burdened property. As the termination procedure operates to extinguish a burden, it cannot be used to target individual benefited proprietors. All benefited proprietors must be given intimation and the renewal date cannot occur until intimation has been given to all, as the renewal date must always be at least 8 weeks after the last date of intimation.
114. *Subsection (2)* explains the permissible methods of intimation. It may be difficult to identify all of the benefited properties. Method (a) involves sending a copy of the proposed notice (with an explanatory note). A form for this explanatory note is contained in schedule 2. Section 124 details the various methods of 'sending' the notice. The notice must be substantially complete, but should not be signed. Method (b) requires the posting of the intimation on the burdened property and on lamp posts in the neighbourhood. The form of this notice is set out in schedule 3. Method (c) is by newspaper advertisement. Evidence of intimation should be retained, for example, recorded delivery slips, a copy of the affixed notice or the advertisement as these may be required by the Lands Tribunal or the Keeper.
115. *Subsection (3)* provides that the first method of intimation (directly sending a copy of the intimation) will have to be used to give intimation to the owner of the burdened property, the holder of any personal real burden and the owner of any benefited property which is within four metres of the burdened property. For other benefited proprietors, the terminator has a choice of intimating by sending, or by affixing notices to the burdened property and to lamp posts. Where this is not possible (or where the burdened property is minerals or salmon fishings) intimation may be given by advertisement. In the measurement of the four metres there is to be disregarded (i) pertinents and (ii) any road if of less than twenty metres in width (section 125).
116. *Subsection (4)* sets out the content of the advertisement used in method (c).
117. *Subsection (5)* obliges the terminator to provide a copy of the proposed notice on request. This will mainly be necessary where intimation has been by lamp post or advertisement (see subsection (4)(c)).
118. *Subsection (6)* makes provision for the removal of lamp post notices no later than one week after the renewal date specified in the notice. The person affixing the notice must take care that it remains conspicuous and legible.

*These notes relate to the Title Conditions (Scotland) Act
2003 (asp 9) which received Royal Assent on 3 April 2003*

119. *Subsection (7)* confirms that planning permission is not required for the display of termination notices.