

# TITLE CONDITIONS (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 9: Powers of the Lands Tribunal**

##### *Section 93: Notification of application*

384. Once an application has been received, the Lands Tribunal must notify interested parties. *Section 93* sets out the list of those who are to be notified and the means by which notification should be given. The meaning of 'send' is given in section 124. Section 94 prescribes the content of the notice.
385. *Subsection (1)* sets out the list of those who are to be notified by the Lands Tribunal. Paragraph (a) deals with applications to discharge or vary or establish the validity of a burden under section 90(1)(a) and applications by owners of 25% of the units in a community under section 91. In these cases, any owner of the burdened property who is not an applicant, and if there is one, the owner of the benefited property, must receive notification. The holder of the title condition must be notified. Paragraph (b) provides that in an application under section 90(1)(b) to renew or vary a burden threatened by the sunset rule in section 20 or acquisition under section 107, the Tribunal must notify the owner of the burdened property and the terminator (who may not be the owner) or acquiring authority (i.e. the person proposing to register the conveyance), as the case may be. In other cases the party who initiated the procedure which gave rise to the application must be notified.
386. Usually notice must be sent individually, but this requirement is waived in the cases mentioned in *subsection (2)*, which provides that notification can be given by advertisement or any other method the Tribunal thinks appropriate. These cases are where the relevant person cannot by reasonable enquiry be identified, appears to lack interest to enforce, or the Tribunal feels that individual notification is impracticable.
387. As a general rule, notification is restricted to owners and does not extend to those holding subsidiary enforcement rights (for which see section 8(2)(a) and (b)). However, *subsection (3)* adds a discretion to notify others.