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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 7

*(introduced by section 50(1))*

### FORM OF NOTICE OF PRESERVATION

“NOTICE OF PRESERVATION”

**Name and address of person sending notice:**

**Description of burdened property:**  
*(see note for completion 1)*

**Description of benefited property:**  
*(see note for completion 1)*

**[Links in title:]**  
*(see note for completion 2)*

**Terms of real burden(s):**  
*(see note for completion 3)*

**Explanation of why the property described as a benefited property is such a property:**  
*(see note for completion 4)*

**Service:**  
*(see note for completion 5)*

**I swear [or affirm] that the information contained in this notice is, to the best of my knowledge and belief, true.**

**Signature of person sending notice:**  
*(see note for completion 6)*

**Signature of notary public:**

**Date:**        .”

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*Explanatory note for owner of burdened property*

*(This explanation has no legal effect)*

This notice is sent by a person who asserts that the use of your property is affected by the real burden [or real burdens] whose terms are described in the notice and that that person is one of the people entitled to the benefit of the real burden [or real burdens] and can, if necessary, enforce it [or them] against you. In this notice your property (or some part of it) is referred to as the “burdened property” and the property belonging to that person is referred to as the “benefited property”.

The grounds for the assertion are given in the notice. By section 50 of the Title Conditions (Scotland) Act 2003 (asp 9) that person’s rights will be lost unless this notice is registered in the Land Register or Register of Sasines by not later than [insert date ten years after the appointed day]. Registration preserves the rights and means that the burden [or burdens] can continue to be enforced by that person and by anyone succeeding as owner of that person’s property.

This notice does not require you to take any action; but if you think there is a mistake in it, or if you wish to challenge it, you are advised to contact your solicitor or other adviser. A notice can be challenged even after it has been registered.

*Notes for completion of the notice*

*(These notes have no legal effect)*

- 1 A single notice may be used for any properties covered by the same constitutive deed. Describe the property in a way that is sufficient to identify it. Where the title has been registered in the Land Register the description should refer to the title number of the property or of the larger subjects of which the property forms part. Otherwise it should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.
- 2 Include the section “Links in Title” only if the person sending the notice does not have a completed title to the benefited property. Set out the midcouple (or midcouples) linking that person with the person who had the last completed title.
- 3 A single notice may be used for any real burdens created in the same constitutive deed. Identify the constitutive deed by reference to the appropriate Register, and set out the real burden in full or refer to the deed in such a way as to identify the real burden.
- 4 Explain the legal and factual grounds on which the land described as a benefited property is a benefited property in relation to the burdened property and the burden described in the notice.
- 5 Do not complete until a copy of the notice, together with the explanatory note, has been sent (or delivered) to the owner of the burdened property (except in a case where that is not reasonably practicable). Then insert whichever is applicable of the following:
 

“A copy of this notice has been sent by [state method and if by post specify whether by recorded delivery, by registered post or by ordinary post] on [date] to the owner of the burdened property at [address].”; or

“It has not been reasonably practicable to send a copy of this notice to the owner of the burdened property for the following reason: [specify the reason].”
- 6 The person sending the notice should not swear or affirm, or sign, until a copy of the notice has been sent (or otherwise) as mentioned in note 5. Before signing, the sender should swear or affirm before a notary public (or, if the notice is being completed outwith Scotland, before a person duly authorised under the local law to administer oaths or receive affirmations) that, to the best of the sender’s knowledge and belief, all the information contained in the notice is true. The notary public should also sign. Swearing or affirming a statement which is known to be false or which is believed not to be true is a criminal offence under the False Oaths (Scotland) Act 1933 (c.20). Normally the sender should swear or affirm, and sign, personally. If, however, the sender is legally disabled or incapable (for example because of mental disorder) a legal representative should swear or affirm, and sign. If the sender is not an individual (for example, if it is a company) a person entitled by law to sign formal documents on its behalf should swear or affirm, and sign.