



# Title Conditions (Scotland) Act 2003

## 2003 asp 9

### PART 10

#### MISCELLANEOUS

##### *Amendments*

#### **110 Amendment of Forestry Act 1967**

- (1) Schedule 5 to the Forestry Act 1967 (c. 10) shall be amended in accordance with the following subsections.
- (2) In paragraph 2 (which provides for notices as respects compulsory purchase orders), after sub-paragraph (1) there shall be inserted—

“(1A) Before making a compulsory purchase order the Scottish Ministers shall give notice of their intention in that regard to—

- (a) the holder of any personal real burden affecting the land to which the order relates if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;
- (b) the owner of any land which is a benefited property (as defined by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) in relation to any land comprised in the order if such registration would vary or extinguish the title condition in question; and
- (c) the owners' association of the development in question if a development management scheme applies as respects any land comprised in the order and registration of the conveyance in implement of the order would disapply that scheme.

(1B) Notice under sub-paragraph (1A)(a) or (b) above may be given—

- (a) by sending (that expression being construed in accordance with section 124 of the said Act of 2003 and as if what was being done was being done under that Act);
- (b) by advertisement;
- (c) by affixing a conspicuous notice<sup>F1</sup> . . . to—

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- (i) in a case where there exists one, and only one, lamp post which is situated within one hundred metres of that property, that lamp post; or
  - (ii) in a case where there exists more than one lamp post so situated, each of at least two such lamp posts; or
  - (d) by such other means as the Scottish Ministers think fit, and service of notice under sub-paragraph (1A)(c) above shall be by sending (as so construed) or by such other means as the Scottish Ministers think fit.
- (1C) Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under sub-paragraph (1B)(c) above as they apply in relation to affixing, and to a notice affixed, under subsection (2)(b) of that section (the reference in paragraph (a)(ii) of the said subsection (6) to the date specified in the notice as the renewal date being construed as a reference to the last day of the period specified in the notice given under paragraph 2(1)(b) above).”.
- (3) In each of paragraphs 3(2) and 6, at the beginning, there shall be inserted the words “ Subject to paragraph 6B below, ”; and in paragraph 4, for the words “paragraph 5” there shall be substituted the words “ paragraphs 5 and 6B ”.
- (4) After paragraph 6 there shall be inserted—

- “6A The Scottish Ministers may require an objector to state in writing whether he objects—
- (a) as a person with title to enforce a title condition and if he does so object then in that statement to—
    - (i) identify the benefited property and burdened property;
    - (ii) identify the title condition (either by setting it out in full or by identifying the constitutive deed, saying where it is registered and giving the date of registration); and
    - (iii) describe his connection with the benefited property.
  - (b) as owners' association and if he does so object then in that statement to identify—
    - (i) the development; and
    - (ii) the development management scheme (by identifying the deed of application, saying where it is registered and giving the date of registration).

- 6B If in compliance with paragraph 6A above an objector states that he objects as mentioned in sub-paragraph (a) or (b) of that paragraph, paragraphs 3(2), 4 and 6 above shall not apply as respects that objection provided that the Scottish Ministers give him a written undertaking that any conveyance in implement of the acquisition will provide—
- (a) where the objector is as mentioned in paragraph 6A(a) above, that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person, any such undertaking—
    - (i) identifying the benefited property (if any) and burdened property;

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- (ii) identifying the order; and
  - (iii) setting out the manner in which the conveyance will fulfil the undertaking; or
- (b) where the objector is as mentioned in paragraph 6A(b) above, that the development management scheme will not be disapplied, any such undertaking—
- (i) identifying the development;
  - (ii) identifying the order; and
  - (iii) setting out the manner in which the conveyance will fulfil the undertaking.

6C The effect, under subsection (1) of section 106 of the Title Conditions (Scotland) Act 2003 (asp 9) (extinction of real burdens and servitudes etc. on compulsory acquisition of land), of registering the conveyance after an undertaking given under paragraph 6B above has been registered against the burdened property, or as the case may be against the units of the development, shall be subject to the terms of the undertaking irrespective of the terms of the conveyance.

6D In this Part, “title condition”, “development management scheme” and “personal real burden” have the same meanings as in that Act; and in paragraphs 6B and 6C above, “conveyance” has the same meaning as in section 106(5) of that Act.”.

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**Textual Amendments**

- F1** Words in s. 110(2) omitted (22.10.2003) by virtue of [The Title Conditions \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/503\)](#), art. 2, [Sch. 1 para. 14](#)

**Changes to legislation:**

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