

Notice of Extinction of Real Burdens and Servitudes

Under application of

Section 107 of the Title Conditions (Scotland) Act 2003

Property: ALL and WHOLE the area of ground lying on or towards Tomatin Estate at Tomatin extending to three thousand five hundred and twenty square metres (3520 sqm) or thereby, as shown outlined in red and hatched green on the plan found on <https://www.transport.gov.scot/publications/?project=37473> being part and portion of ALL and WHOLE Tomatin Estate as conveyed by Disposition by Mrs Eleanor Ann Margaret Bulloch or Glynne-Percy to Colin Douglas Glynne-Percy, Diana Marion Eleanor Usborne and Peter James Glynne-Percy recorded in the Division of the General Register of Sasines applicable to the County of Inverness on 13 March 1989 (hereinafter referred to as “the Property”)

Applicant: The Scottish Ministers
Transport Scotland
Buchanan House
8th Floor North
58 Port Dundas Road
Glasgow
G4 0HF

(hereinafter referred to as the “Scottish Ministers”)

Expiry Date: 28 January 2021

We hereby give you notice that The Scottish Ministers are purchasing the Property means of a Statutory Conveyance. By virtue of Section 107 of the Title Conditions (Scotland) Act 2003, all real burdens and servitudes over the land may be extinguished and any development management scheme disapplied on registration of the said Conveyance.

You as holder of a servitude/real burden over the Property, are entitled to obtain information from The Scottish Ministers regarding any compensation you may be entitled to.

You are required to apply to the Lands Tribunal for Scotland, George House, 126 George Street, Edinburgh, EH2 4HH, within 21 days of the date of this notice (noted above as the ‘Expiry date’), if you wish to renew or vary the title conditions under the application of Paragraph (b) of Section 90(1) of the Title Condition (Scotland) Act 2003.

Dated this 07 day of January Two thousand and Twenty One

A handwritten signature in black ink, appearing to be 'N. Morrison'.

FOR AND BEHALF OF THE SCOTTISH MINISTERS

107 Extinction of real burdens and servitudes etc. where land acquired by agreement

(1) If-

(a) land acquired by a person by agreement could have been so acquired by that person compulsorily by virtue of any enactment; and

(b) the person, having complied with subsection (4) below, registers a conveyance in implement of such acquisition together with a relevant certificate,

then, except in so far as the terms of the conveyance provide otherwise, on such registration any real burden, or servitude, over the land shall be extinguished and any development management scheme applying as respects the land disappplied.

(2) Registration under subsection (1) above shall not vary or extinguish a title condition which is the subject of an application disclosed by the certificate in so far as that title condition-

(a) is constituted in favour of the property of which the applicant is owner; or

(b) is a personal real burden of which the applicant is holder,

or disapply a development management scheme, described in the certificate; but the conveyance may be registered again, together with a further such certificate, under that subsection, the effect of the later registration being determined by reference to the further certificate rather than to the earlier certificate.

(3) Subsection (2) of section 106 of this Act shall apply in relation to the exception in subsection (1) above as it applies in relation to the exception in subsection (1) of that section.

(4) The person proposing to register the conveyance shall, before doing so in accordance with subsection (1)(b) above-

(a) if such registration would extinguish a title condition, give notice to the owner of the benefited property (or in the case of a personal real burden to the holder of that burden); and

(b) if it would disapply a development management scheme, give notice to the owners' association,

of the matters mentioned in subsection (6) below.

(5) Any person to whom notice is given under subsection (4) above may, on or before the date specified by virtue of subsection (6)(d)(ii) below, apply to the Lands Tribunal for renewal or variation of the title condition or as the case may be preservation of the development management scheme.

(6) The matters are-

- (a) a description of the land;
- (b) the name and address of the person proposing to register the conveyance;
- (c) the fact that, by virtue of this section (and subject to the terms of the conveyance), real burdens and servitudes over the land may be extinguished and any development management scheme disapplied;
- (d) that the person given notice-
 - (i) may obtain information from the person acquiring the land about any entitlement to compensation; and
 - (ii) will require to apply to the Lands Tribunal for Scotland, by a date specified in the notice, if the title condition is to be renewed or varied under paragraph (b) of section 90(1) of this Act or as the case may be the development management scheme preserved under paragraph (e) of that section.

(7) The date so specified may be any date which is not fewer than twenty-one days after the notice is given (intimation by affixing being taken, for the purposes of this subsection, to be given when first the notice is affixed).

(8) Notice under subsection (4)(a) above may be given-

- (a) by sending;
- (b) by advertisement;
- (c) by affixing a conspicuous notice to the burdened property and to-
 - (i) in a case where there exists one, and only one, lamp post 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 method as the person acquiring the land thinks fit,

and notice under subsection (4)(b) above may be given by sending or by such other means as that person thinks fit.

(9) Subsections (6) and (7) of section 21 of this Act apply in relation to affixing, and to a notice affixed, under subsection (8)(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 date specified by virtue of subsection (6)(d)(ii) above).

(10) In this section-

"conveyance" has the same meaning as in section 106(5) of this Act except that the reference, in paragraph (a) of the definition of that expression in that section, to subsection (1) of that section shall be read as a reference to that subsection of this section and paragraph (c) of that definition shall be disregarded; and

"relevant certificate" means a certificate executed, on or after the date specified by virtue of subsection (6)(d)(ii) above, by a member of the Lands Tribunal, or by their clerk, to the effect that no application in relation to the proposal to register the conveyance has been received under section 90(1)(b)(ii) or (e) of this Act or that any such application which has been received-

(a) has been withdrawn; or

(b) relates, in the case of an application under section 90(1)(b)(ii), (either or both)-

(i) to one or more but not to all of the title conditions over the land (any title condition to which it relates being described in the certificate);

(ii) to one or more but not to all (or probably or possibly not to all) of the benefited properties (any benefited property to which it relates being described in the certificate),

and where more than one such application has been received the certificate shall relate to both (or as the case may be to all) applications.

(11) Any application for a relevant certificate shall be made in the form set out in schedule 12 to this Act.