

Scottish Statutory Instrument 2003 No. 452

The Lands Tribunal for Scotland Rules 2003

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SCOTTISH STATUTORY INSTRUMENTS

2003 No. 452

LANDS TRIBUNAL

The Lands Tribunal for Scotland Rules 2003

<i>Made</i>	<i>22nd September 2003</i>
<i>Laid before the Scottish Parliament</i>	<i>24th September 2003</i>
<i>Coming into force</i>	
<i>for the purposes of applications under section 20</i>	

*and referrals under section
44 of the Abolition of Feudal
Tenure etc. (Scotland) Act
2000 and referrals under
section 86(5), and
applications under or by
virtue of sections 90(1)(b)(ii)
and 107 of the Title
Conditions (Scotland) Act
2003*

1st November 2003

for all other purposes

28th November 2004

The Scottish Ministers, in exercise of the powers conferred by section 3 of the Lands Tribunal Act 1949[1] and sections 101 and 104 of the Title Conditions (Scotland) Act 2003[2] and of all other powers enabling them in that behalf, and after consultation with the Scottish Committee of the Council on Tribunals in accordance with section 104 of the Title Conditions (Scotland) Act 2003 and section 8(1) of the Tribunals and Inquiries Act 1992[3], hereby make the following Rules:

Citation and commencement

1. - (1) These Rules may be cited as the Lands Tribunal for Scotland Rules 2003.

(2) These Rules shall come into force-

(a) for the purposes of applications or referrals under sections 20 and 44 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000[4] and under, or by virtue of, sections 86(5) and 90(1)(b)(ii) and 107 of the Title Conditions (Scotland) Act 2003, on 1st November 2003; and

(b) for all other purposes, on 28th November 2004.

Interpretation

2. In these Rules-

"the Act of 1949" means the Lands Tribunal Act 1949;

"the Act of 1963" means the Land Compensation (Scotland) Act 1963[5];

"the Act of 1997" means the Town and Country Planning (Scotland) Act 1997[6];

"the Act of 2000" means the Abolition of Feudal Tenure etc. (Scotland) Act 2000;

"the Act of 2003" means the Title Conditions (Scotland) Act 2003;

"the President" means the President of the Lands Tribunal for Scotland or the member appointed under the provisions of the Act of 1949 to act for the time being as deputy for the President;

"the Tribunal" means the Lands Tribunal for Scotland.

PART I

APPLICATIONS UNDER THE ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND)
ACT 2000 AND THE TITLE CONDITIONS (SCOTLAND) ACT 2003

General

3. Any application to the Tribunal made under, or by virtue of, any of the provisions listed in column 1 of Schedule 1 shall be made in, or as nearly as may be in, accordance with the corresponding application form listed in column 2 of that Schedule and set out in Schedule 2.

Applications under section 20 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000

4. On receiving an application under section 20 of the Act of 2000 (Reallotment of real burden by order of Lands Tribunal) the Tribunal shall give notice of that application to the person who has a right to the feu which is subject to the real burden in question, and, if the Lands Tribunal thinks fit, to any other person by sending a copy of that application to such person or, if such person cannot by reasonable inquiry be identified or found, by advertisement or such other method as the Tribunal thinks fit. Any person who is entitled to oppose or make representations in relation to the application shall send intimation thereof in writing to the Tribunal and to the applicant within 21 days of the notice of application. Such intimation shall contain a concise statement of the facts and contentions on which it is intended to rely. The Tribunal shall send copies of any such intimations to those other persons whom it considers should receive a copy.

Applications for certificates referred to in sections 23, 37 and 73 and 107 of the Title Conditions (Scotland) Act 2003

5. When an application is made to the Tribunal for a certificate referred to in section 23 (Prerequisite certificate for registration on notice of termination), section 37 (Preservation of a community burden), section 73 (Disapplication) or section 107 (Extinction of real burdens and servitudes etc where land acquired by agreement) of the Act of 2003, there shall be sent with the application sufficient evidence to satisfy the Tribunal of the intimation of the notice of termination, or the notice of a proposal to register a deed of variation or discharge, or the notice of a proposal to register a deed of disapplication or the notice of a proposal to register a conveyance, as the case may be.

Taking effect of orders

6. - (1) Subject to the provisions of paragraphs (2) and (3), an order made by the Tribunal in respect of applications under sections 90(1) (Power of Lands Tribunal as respects title conditions) or 91(1) (Special provision as to variation or discharge of community burdens) of the Act of 2003 shall take effect on the occurrence of whichever of the following events last occurs after the Tribunal has made the order:-

- (a) the expiry of a period of 21 days after the date when the order was made by the Tribunal;
- (b) the disposal by the Court of Session of a case stated by the Tribunal on appeal to that court or, if there is an appeal to the House of Lords, the disposal of the case by the House of Lords;
- (c) the abandonment or other termination of the proceedings on a case so stated without a decision having been given;

(d) the abandonment or other termination of an appeal against the decision of the Court of Session on a case so stated or the expiry of the time for bringing any such appeal without it having been brought; or

(e) the variation by the Tribunal of the order in compliance with any directions given by the Court of Session or the House of Lords in proceedings relating to such a case:

Provided that where the application is unopposed or all persons who have opposed or made representations in respect of the application have informed the Tribunal that they consent to the order taking effect immediately, and it is so certified in the order, such order shall take effect on the date on which it is made by the Tribunal.

(2) Where an obligation is varied or discharged subject to the payment of any compensation awarded by the Tribunal, the order of the Tribunal shall not, so far as it affects such variation or discharge, take effect until the Tribunal has endorsed the order to the effect either that the compensation has been paid or that all persons to whom any compensation has been awarded but who have not received payment of it have agreed to the order taking effect.

(3) The Tribunal may direct that the compensation shall be paid or satisfied within a specified time and that, unless it is so paid or satisfied, the order shall be void on the expiration of the time so specified.

PART II

DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION

General

7. Subject to the provisions of Part II of the Act of 1963 and of Part V of these Rules the procedure regulating the determination of questions of disputed compensation shall be as set out in this Part.

Method of making application

8. - (1) Proceedings for the determination of any question or dispute to which this Part applies may be instituted by any party who requires to have the question or dispute determined sending to the Tribunal an application in or as nearly as may be in accordance with Form 1 in Schedule 2 and the Tribunal shall send copies of such application to the other parties to the question or dispute and to any other persons whom it considers should receive a copy.

(2) There shall be sent with the application-

(a) if the compensation is payable on the compulsory acquisition of land, a copy of the notice to treat (if such notice has been served) and of any notice of claim and any amendment thereof delivered to the acquiring authority in pursuance of section 5 of the Act of 1963; or

(b) in any other case, a copy of the order, direction, notice, decision, authorisation or other document which is evidence of the proceedings giving rise to compensation.

(3) An application shall not be made before the expiry of 30 days from the date of service or constructive service of notice to treat or (where no notice to treat is served or is deemed to be served) of notice of claim.

PART III

REFERENCES UNDER SECTION 104 OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997

Interpretation

9. In this Part-

"claimant" and "appropriate authority" have the meanings assigned to them by sections 101 and 120 respectively of the Act of 1997.

Making of references

10. Where in accordance with section 102 of the Act of 1997 the appropriate authority has served on a claimant a counter-notice objecting to a blight notice served on them by the claimant and the claimant requires that the objection be referred to the Tribunal in terms of section 104 of that Act (Reference of objection to Lands Tribunal) then the claimant shall, at any time before the end of the period of two months beginning with the date of service of the counter-notice, send or deliver to the Tribunal a notice of reference in, or as nearly as may be in, accordance with Form 2 in Schedule 2 and shall enclose with the notice of reference a copy of the blight notice and of the counter-notice and the Tribunal shall forthwith send a copy of the notice of reference to the appropriate authority.

PART IV

REFERENCES UNDER SECTION 1(3A) OF THE LANDS TRIBUNAL ACT 1949

Making of references

11. An appeal or complaint may be referred to the Tribunal under section 1(3A) of the Act of 1949 by a valuation appeal committee sending to the Tribunal a notice of reference in or as nearly as may be in accordance with Form 3 in Schedule 2 together with a copy of the appeal lodged in accordance with regulation 3 of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995^[7] and copies of any application and written representations made in accordance with regulation 4 of those Regulations.

Determination declined

12. If the Tribunal declines to proceed to determine any appeal or complaint in terms of section 1(3B) of the Act of 1949, it shall give notice of its decision with reasons to all parties having an interest in the appeal or complaint and shall retransmit the appeal or complaint to the valuation appeal committee.

PART V

Method of making Application

13. Except where these Rules otherwise provide, any question which is to be determined by or referred to the Tribunal shall be brought before it by way of written application and, except where otherwise provided by section 93 of the Act of 2003 (Notification of application), a copy of the application shall be sent by the Tribunal to each of the other parties to the proceedings and to such other persons whom it considers should receive a copy, setting a date by which representations to it as respects the application may be made. In a case in which the Tribunal is acting as arbiter under a reference by consent the notice of reference shall be in or as nearly as may be in accordance with Form 1.

Procedure

14. Subject to the provisions of these Rules and to any direction given by the President the Tribunal may regulate its procedure as it thinks fit.

Sittings of Tribunal

15. - (1) Sittings of the Tribunal shall be on such dates and at such times and places as the President may from time to time determine and, not less than 21 days or such shorter period as the parties agree to before the date of a hearing, the Tribunal shall-

- (a) give notice in writing to the parties to the proceedings; and
- (b) give notice by such method as it may determine (whether by way of advertisement or otherwise) to any other persons whom it considers have an interest in the proceedings,

of the date, time and place of the hearing.

(2) The Tribunal shall sit in public except that when it is acting as arbiter under a reference by consent the proceedings shall be held in private if the parties to the reference so request.

Representation

16. In any proceedings before the Tribunal any party to the proceedings may appear and may be heard in person or be represented by counsel or solicitor or, with the leave of the Tribunal, by any other person.

Administration of Oaths

17. The Tribunal may administer oaths to witnesses in due form.

Default of Appearance

18. If, after notice of a hearing has been given to a party in accordance with rule 15(1), that party or that party's representative fails to appear at the hearing, the Tribunal may dispose of the application in the absence of that party or that party's representative or may adjourn the hearing:

Provided that where the Tribunal has so disposed of the application, the Tribunal, on an application made by that party within 7 days of due intimation of the disposal, may if it is satisfied that there was sufficient reason for such absence, set aside its decision on such terms as to expenses or otherwise as it thinks fit.

Evidence

19. Evidence before the Tribunal may be given orally or by affidavit, but the

Tribunal may at any stage of the proceedings require the personal attendance of any deponent for examination and cross examination.

Power to require further particulars and attendance of witnesses and to order recovery of documents

20. - (1) The Tribunal may on the motion of any party to the proceedings or ex proprio motu by notice in writing-

- (a) require a party to furnish in writing further particulars of that party's case;
- (b) order a record to be made up;
- (c) grant to a party such commission and diligence for the recovery of documents, or provide such other means of recovery thereof, as could be granted or provided by the Court of Session in a cause before it, such a recovery being effected, where a commission and diligence has been granted, by execution thereof or in that or any other case in any manner in which recovery could be provided for by the Court of Session in such a cause;
- (d) require the attendance of any person as a witness; and
- (e) require the production of any document relating to the question to be determined,

and may appoint the time at or within which or the place at which any act required in pursuance of this rule is to be done:

Provided that-

- (i) no person shall be required in obedience to such a requirement to attend at any place which is more than 10 miles from the place where that person resides unless the necessary expenses are paid or tendered to that person by the party at whose instance attendance has been required or by the Tribunal as the case may be; and
- (ii) nothing in this provision shall empower the Tribunal to require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the proceedings were proceedings in a Court of Law.

(2) The Tribunal may also by notice in writing order any party who intends, at a proof or hearing-

- (a) to use or put in evidence any documents; or
- (b) to rely for valuation purposes on properties comparable to those to which the proceedings relate

to produce the documents, or, as the case may be, to supply, in such form as

may be required by the Tribunal, a list of the properties, on such date before the proof or the hearing as the Tribunal may specify.

(3) Any notice given under paragraph (1)(c) or (d) or (2) shall contain a reference to the provisions of section 3(12)(c) of the Act of 1949^[8], (by which any person who, without reasonable excuse, fails to comply with any such notice shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment).

Provision for other Parties

21. Subject to the provisions of these Rules and, in respect of applications under section 90(1) or 91(1) of the Act of 2003, to section 95 of that Act (Persons entitled to make representations) the Tribunal, on the application of any person who appears to it to have an interest in the proceedings, may allow that person to become a party to the proceedings.

Withdrawal of Party

22. The Tribunal may, on such terms as to expenses or otherwise as it thinks fit, consent to any party withdrawing from the proceedings.

Extension of Time and Adjournment of Hearing

23. The Tribunal may, on such terms as to expenses or otherwise as it thinks fit-

(a) extend any time appointed by, or specified by it in terms of, these Rules notwithstanding that that time may have expired;

(b) postpone, or adjourn, any hearing.

Assessors

24. - (1) If it appears to the President that any case before the Tribunal calls for special knowledge and that it would be desirable for the Tribunal to sit with an Assessor or Assessors, the President may direct that the Tribunal shall hear the case with the aid of such Assessor or Assessors as the President may, after consulting such persons, if any, as the President may think fit, appoint.

(2) The remuneration to be paid to any Assessor appointed under this rule shall be such as the President may, with the approval of the Treasury determine.

Notices

25. Any notice or other document required or authorised to be given to any person for the purpose of these Rules shall be deemed to have been duly given if sent by post by means of the recorded delivery service or registered post or delivered to that person's ordinary address or to the address specified by that person for intimation under these Rules:

Provided that, when difficulty is experienced in effecting such intimation for any reason, the Tribunal, on being satisfied that all practicable steps have been taken in an effort to intimate, may dispense with intimation upon such person or may take such other steps as it thinks fit.

Power to Dispose of Case Without a Hearing

26. Notwithstanding the provisions of these Rules the Tribunal, with the

consent of all parties whom it considers to have an interest in the application, (including any application relating to a disputed claim for compensation to which section 3(6B) of the Act of 1949 as enacted by paragraph 3(2) of Schedule 33 to the Local Government, Planning and Land Act 1980^[9] applies) may dispose of any application before it without a hearing.

Decision of Tribunal

27. - (1) The decision of the Tribunal in any proceedings shall be given in writing and shall include a statement of the Tribunal's reasons for its decision.

(2) Where an amount awarded or value determined by the Tribunal is dependent upon the decision of the Tribunal on a question of law which is in dispute in the proceedings, the Tribunal shall ascertain, and shall state in its decision the alternative amount or value (if any) which it would have awarded or determined if it had decided otherwise on the question of law.

(3) The Tribunal shall send a copy of the decision to all parties to the proceedings.

(4) An accidental or arithmetical error in any decision of the Tribunal may be corrected by the Tribunal if, before making the correction, it has given notice of its intention to make it to all those who were parties to the proceedings.

(5) When a correction is made under paragraph (4), or for the purpose of giving effect to any decision of the Court of Session in a case stated for their opinion, the Tribunal shall give notice that it has been made to all the parties to the proceedings by sending to each of them a copy of the decision as corrected.

Expenses

28. - (1) For the purposes of determining applications under Part 9 of the Act of 2003, expenses shall be determined in accordance with sections 97(4), 99(3) and 103 of that Act. In all other cases except those to which the provisions of section 11 of the Act of 1963 apply or proceedings referred to in paragraph (6) of this rule, the Tribunal shall deal in such manner with the expenses as in its discretion it thinks fit.

(2) The Tribunal may order that a party shall pay to another party either a specific sum in respect of the expenses incurred by that other party or such proportion of those expenses as the Tribunal thinks fit.

(3) In default of agreement between the parties as to the amount of the expenses, the expenses shall be taxed, in the discretion of the Tribunal, either by the Auditor of the Court of Session according to the fees payable in the Court of Session or by the Auditor of the Sheriff Court specified by the Tribunal according to the Sheriff Court Table of Fees.

(4) Counsel's fees and the fees for instruction of Counsel shall be allowed as an item of a party's expenses only where the Tribunal has sanctioned the employment of Counsel.

(5) Additional expenses at such rate as the Auditor taxing the expenses considers fair and reasonable shall be allowed for the employment of expert witnesses only where the Tribunal has certified the employment of such expert witnesses.

(6) In proceedings under Part IV of these Rules the Tribunal shall not have power to order payment of expenses and the foregoing provisions of this rule

shall not apply.

Fees

29. - (1) The fees specified in the Schedule to the Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996[10] shall be payable to the Tribunal in respect of the matters mentioned in that Schedule. The Tribunal may waive the whole or part of the fees payable by a party where it considers that the financial circumstances of the party are such that undue hardship would be caused by payment of the said fees.

(2) The hearing fee shall, unless the Tribunal otherwise directs, be payable by the party by whom the proceedings were instituted (without prejudice to any right to recover the amount of the fee from any other party by virtue of any order as to expenses).

Revocation and saving

30. - (1) Subject to paragraph (2) below the rules specified in Schedule 3 are hereby revoked as from 28th November 2004.

(2) Part VI of the Lands Tribunal for Scotland Rules 1971[11] shall continue to apply in respect of appeals and references under Parts IV, V and VA of those Rules.

Transitional Provisions

31. Where before the date on which Part 9 of the Act of 2003 comes into operation, proceedings have been commenced under section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970 then-

(a) where the hearing has not begun at that date, anything done for the purpose of determining any question, dispute or other matter shall be treated, so far as practicable, as if it had been done for the purpose of an application under these Rules and shall be dealt with by the Tribunal in accordance with the provisions of these Rules; and

(b) where the hearing has begun at that date, unless the parties agree otherwise, the hearing shall proceed in accordance with the procedure in force immediately before the coming into operation of the said Part.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House, Edinburgh
22nd September 2003

SCHEDULE 1

Rule 3

LIST OF APPLICATIONS AND APPLICATION FORMS

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<i>Column 1</i>	<i>Column 2</i>
<i>List of provisions under which application may be made to the Tribunal</i>	<i>Corresponding application form</i>
Title Conditions (Scotland) Act 2003	
Section 90(1)(a)	TC 90(1)(a)
Section 90(1)(b)	TC 90(1)(b)
Section 90(1)(c)	TC 90(1)(c)
Section 90(1)(d)	TC 90(1)(d)
Section 90(1)(e)	TC 90(1)(e)
Section 91(1)	TC 91
Certificate under section 23	TC 23
Certificate under section 37	TC 37
Certificate under section 73	TC 73
Referral under section 86(5)	TC 86
Referral under section 102	TC 102
Abolition of Feudal Tenure etc. (Scotland) Act 2000	
Section 20	AFT 20
Referral under section 44	AFT 44

SCHEDULE 2

Rules 3, 8, 10 and 11

FORM 1

Application for Determination of Question of Disputed Compensation

I/We AB (*name and address of the applicant*) hereby apply for the determination by the Lands Tribunal for Scotland of the question of which particulars are set out below.

Particulars

- 1. (Here distinguish the subjects to which the application relates sufficiently precisely to enable them to be identified. Where appropriate give Ordnance Survey Grid Reference for the subjects.)*
- 2. (Give names and addresses of the parties to the dispute.)*
- 3. (Give a concise statement of the nature of the dispute, and of the grounds on which compensation is claimed.)*
4. Where compensation is claimed for compulsory purchase, state whether

the acquiring authority has entered upon the land or possession has been given and if so, on what date.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. Where the application relates to the compensation payable on a compulsory acquisition of land a copy of the notice to treat (if such notice has been served) and of any notice of claim or amended notice of claim delivered to the acquiring authority *must* be sent with this notice.
- 2. In any other case a copy of the order, direction, notice, decision, authorisation or other document which is evidence of the proceedings giving rise to compensation *must* be sent to the Tribunal with this notice. Where a reference is made in pursuance of an agreement to refer any matter to arbitration a copy of the agreement should be sent with this notice.
- 3. At any hearing relating to this application you will be required to adhere to the case set out above unless the Tribunal considers that the introduction of new material would not prejudice the interests of other parties.

FORM 2

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notice of Reference of Objection to a Blight Notice contained in a Counter Notice served under section 102 of the Act of 1997

Description of property to which this reference relates-

I/We

of *(here state usual address)*

being entitled as (*here state nature of interest*)

to

in the property described above hereby apply for the determination by the Lands Tribunal of the question of which particulars are set out below.

All communications regarding this reference should be addressed to me/us at the address shown above [or to my/our solicitor/agent

of

]

Particulars

The question which in terms of section 104 of the above mentioned Act the Lands Tribunal is requested to determine is whether the objection by (*state name(s) and address(es) of objecting authority and authority served*) by

day of

20

contained in a counter notice under section 102 of the above mentioned Act in respect of my/our interest in the above mentioned property is well founded or not.

Dated

Signed

NOTE:-

A copy of the Blight Notice served on the authority and a copy of the Counter Notice containing the objection served by the authority must accompany this notice of reference.

FORM 3

VALUATION

SECTION 1(3A) OF THE LANDS TRIBUNAL ACT 1949

*Notice of reference under Part IV of the Lands Tribunal for Scotland Rules
2003*

The valuation appeal committee sitting at *(place)* on *(date)* in accordance with the provisions of section 1(3A) of the Lands Tribunal Act 1949 and regulation 4 of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995 refers for determination by the Lands Tribunal for Scotland the appeal or complaint of which particulars are set out below.

Particulars

1. Description of property to which this reference relates. *(Here describe the lands and heritages to which the appeal or complaint relates with sufficient precision to enable them to be identified, including a reference to the relevant entry in the valuation roll.)*

2.

(a) (Give name and address of the appellant/complainant.)

(b) (Give name and address of the assessor.)

3. A copy of the appeal or complaint made in accordance with regulation 3 of the 1995 Regulations and copies of the application and written representations made in accordance with regulation 4 of the 1995 Regulations are attached.

Signed

Secretary to the Committee

Date

FORM TC 90(1)(a)

Application under section 90(1)(a) of the Title Conditions (Scotland) Act 2003 to discharge or vary a title condition and/or for the determination of a question as to the validity, applicability or enforceability of a title condition if it is a real burden or rule of a development management scheme.

1. Name and address of applicant.

2. Applicant's connection with land subject to the title condition.

The applicant is the owner of the land subject to the title condition

or

The title condition is enforceable against the applicant because *(specify)*

3. Particulars of title condition.

- (a) Nature of title condition.
- (b) Property burdened by title condition (*describe the burdened property sufficiently precisely to enable it to be identified*).
- (c) Manner and date of creation of title condition (*describe the deed in which the title condition was created by reference to the names of the parties and date of registration or recording, or, if it was not created in a deed, provide reasons for thinking that a title condition exists*).
- (d) Owner(s) of the burdened property (*state names and addresses*).
- (e) Persons entitled to the benefit of the title condition (*here state names and addresses of benefited proprietors and/or holders of the title condition*).

If your application is for discharge or variation, complete part A.

If your application is for the determination of a question as to the validity, applicability or enforceability of a title condition which is a real burden or rule of a development management scheme, complete part B.

Note that it is not normally necessary to complete both parts of this form.

Part A

4. Nature of application (*here state whether the application is for complete discharge or variation of the title condition, and if the latter, specify what change is required*).

5. Details of application (*here give a statement of the circumstances in which discharge or variation is required*).

6. Statutory basis of application (*here specify which of the grounds in section 98 applies and give brief details of circumstances bearing on each of the factors referred to in section 100 of the Title Conditions (Scotland) Act 2003. Note that in relation to section 100(j) you should set out full detail of any other circumstances you wish the Tribunal to consider in support of your application.*).

Part B

7. Nature of application (*here state whether the application is for a determination of the validity, applicability or enforceability*).

8. Basis of application (*here give a statement of the reasons for believing that the real burden or rule of a development management scheme is valid or invalid, applicable or inapplicable, enforceable or unenforceable*).

I/We hereby apply for the discharge /variation of the title condition described above.

and/or

I/We hereby apply for the determination of a question as to the validity, applicability or enforceability of the title condition described above which is a real burden or rule of a development management scheme.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

1. You should enclose with this application a copy of any conveyance, deed, instrument or writing under which the title condition was created, a large scale plan of the location identifying adjacent properties and any grant of planning permission which has been obtained for any proposed development, with any plans relating to it.

2. Section 98 of the Title Conditions (Scotland) Act reads as follows:-

An application for the variation, discharge, renewal or preservation, of a title condition shall, unless it falls to be granted as of right under section 97(1) of this Act, be granted by the Lands Tribunal only if they are satisfied, having regard to the factors set out in section 100 of this Act, that-

- (a) except in the case of an application under subsection (3) of section 34 or, in respect of a deed of variation or discharge granted by the owner of an adjacent unit, subsection (1) of section 37 of this Act, it is reasonable to grant the application; or
- (b) in such a case, the variation or discharge in question-
 - (i) is not in the best interests of the owners of all the units in the community; or
 - (ii) is unfairly prejudicial to one or more of those owners.

3. Section 100 of the Title Conditions (Scotland) Act reads as follows:-

The factors mentioned in section 98 of this Act are-

- (a) any change in circumstances since the title condition was created (including, without prejudice to that generality, any change in the character of the benefited property, of the burdened property or of the neighbourhood of the properties);
- (b) the extent to which the condition-
 - (i) confers benefit on the benefited property; or
 - (ii) where there is no benefited property, confers benefit on the public;
- (c) the extent to which the condition impedes enjoyment of the burdened property;

(d) if the condition is an obligation to do something, how-

- (i) practicable; or
- (ii) costly,

it is to comply with the condition;

(e) the length of time which has elapsed since the condition was created;

(f) the purpose of the title condition;

(g) whether in relation to the burdened property there is the consent, or deemed consent, of a planning authority, or the consent of some other regulatory authority, for a use which the condition prevents;

(h) whether the owner of the burdened property is willing to pay compensation;

(i) if the application is under section 90(1)(b)(ii) of this Act, the purpose for which the land is being acquired by the person proposing to register the conveyance; and

(j) any other factor which the Lands Tribunal consider to be material.

4. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully and accurately as you can. The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 90(1)(b)

*Application under section 90(1)(b) of the Title Conditions (Scotland) Act 2003
to renew or vary a title condition*

1. Name and address of applicant.

2. Applicant's connection with land subject to the title condition.

The applicant is the owner of a benefited property (*describe the benefited property sufficiently precisely to enable it to be identified*)

or

The applicant is the holder of a personal real burden (*specify*).

3. Particulars of title condition.

- (a) Nature of title condition.
- (b) Property burdened by title condition (*describe the burdened property sufficiently precisely to enable it to be identified*).
- (c) Manner and date of creation of title condition (*describe the deed in which the title condition was created by reference to the names of the parties and date of registration or recording, or, if it was not created in a deed, provide reasons for thinking that a title condition exists*).
- (d) Owner(s) of the burdened property (*state names and addresses*).

4. Circumstances giving rise to application (*here give details of the notice received of a proposal to execute and register a notice of termination or to register a conveyance, including the name and address of the person proposing to register the notice of termination or conveyance. Alternatively a copy of the notice may be enclosed.*).

5. Renewal date specified in that notice (*give the date by which an application for renewal or variation must be made to the Lands Tribunal*).

6. Nature of application (*here state whether the application is for renewal or variation of the title condition, and if the latter, specify what change is required*).

7. Statutory basis of application (*here specify which of the grounds in section 98 applies and give brief details of circumstances bearing on each of the factors referred to in section 100 of the Title Conditions (Scotland) Act 2003. Note that in relation to section 100(j) you should set out full detail of any other circumstances you wish the Tribunal to consider in support of your application.*).

I/We hereby apply for the renewal/variation of the title condition described above.

Signed _____

Date _____

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

1. You should enclose with this application a copy of any conveyance, deed, instrument or writing under which the title condition was created and a large scale plan of the location identifying adjacent properties.

2. Section 98 of the Title Conditions (Scotland) Act reads as follows:-

An application for the variation, discharge, renewal or preservation, of a title condition shall, unless it falls to be granted as of right under section 97(1) of this Act, be granted by the Lands Tribunal only if they are satisfied, having regard to the factors set out in section 100 of this Act, that-

- (a) except in the case of an application under subsection (3) of section 34 or, in respect of a deed of variation or discharge granted by the owner of an adjacent unit, subsection (1) of section 37 of this Act, it is reasonable to grant the application; or
- (b) in such a case, the variation or discharge in question-
 - (i) is not in the best interests of the owners of all the units in the community; or
 - (ii) is unfairly prejudicial to one or more of those owners.

3. Section 100 of the Title Conditions (Scotland) Act reads as follows:-

The factors mentioned in section 98 of this Act are-

- (a) any change in circumstances since the title condition was created (including, without prejudice to that generality, any change in the character of the benefited property, of the burdened property or of the neighbourhood of the properties);
- (b) the extent to which the condition-
 - (i) confers benefit on the benefited property; or
 - (ii) where there is no benefited property, confers benefit on the public;
- (c) the extent to which the condition impedes enjoyment of the burdened property;
- (d) if the condition is an obligation to do something, how-
 - (i) practicable; or
 - (ii) costly,it is to comply with the condition;
- (e) the length of time which has elapsed since the condition was created;
- (f) the purpose of the title condition;
- (g) whether in relation to the burdened property there is the consent, or deemed consent, of a planning authority, or the consent of some other regulatory authority, for a use which the condition prevents;
- (h) whether the owner of the burdened property is willing to pay compensation;
- (i) if the application is under section 90(1)(b)(ii) of this Act, the purpose for which the land is being acquired by the person proposing to register the conveyance; and

(j) any other factor which the Lands Tribunal consider to be material.

4. In the case of applications under section 90(1)(b)(ii) you should be able to obtain more information about the purpose of the conveyance from the person proposing to register the conveyance, whose name and address is on the notice you received, however it is not necessary for you to comment on section 100(i) if you do not have information.

5. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully and accurately as you can. The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 90(1)(c)

*Application under section 90(1)(c) of the Title Conditions (Scotland) Act 2003
to preserve a community burden*

1. Name and address of applicant.

2. Applicant's connection with land subject to the community burden.

The applicant is the owner of a unit in a community (*describe the applicant's benefited property sufficiently precisely to enable it to be identified*).

3. Particulars of community burden to be preserved.

(a) Nature of community burden.

(b) Manner and date of creation of community burden (*describe the deed in which the community burden was created by reference to the names of the parties and date of registration or recording*).

4. Circumstances giving rise to application (*here give details of the notice received of a proposal to register a deed of variation or discharge, including the name and address of the person proposing to register. Alternatively a copy of the notice may be enclosed.*).

5. Date specified in that notice (*give the date by which an application for preservation must be made to the Lands Tribunal*).

6. Statutory basis of application (*here specify which of the grounds in section 98 applies and give brief details of circumstances bearing on each of the factors referred to in section 100 of the Title Conditions (Scotland) Act 2003. Note that in relation to section 100(j) you should set out full detail of any other circumstances you wish the Tribunal to consider in support of your application.*).

I/We hereby apply for the preservation of the community burden described above.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

1. You should enclose with this application a copy of the conveyance, deed, instrument or writing under which the title condition was created and a large scale plan of the location identifying adjacent properties.

2. Section 98 of the Title Conditions (Scotland) Act reads as follows:-

An application for the variation, discharge, renewal or preservation, of a title condition shall, unless it falls to be granted as of right under section 97(1) of this Act, be granted by the Lands Tribunal only if they were satisfied, having regard to the factors set out in section 100 of this Act, that-

- (a) except in the case of an application under subsection (3) of section 34 or, in respect of a deed of variation or discharge granted by the owner of an adjacent unit, subsection (1) of section 37 of this Act, it is reasonable to grant the application; or
- (b) in such a case, the variation or discharge in question-
 - (i) is not in the best interests of the owners of all the units in the community; or
 - (ii) is unfairly prejudicial to one or more of those owners.

3. Section 100 of the Title Conditions (Scotland) Act reads as follows:-

The factors mentioned in section 98 of this Act are-

- (a) any change in circumstances since the title condition was created (including, without prejudice to that generality, any change in the character of the benefited property, of the burdened property or of the neighbourhood of the properties);
- (b) the extent to which the condition-
 - (i) confers benefit on the benefited property; or
 - (ii) where there is no benefited property, confers benefit on the public;
- (c) the extent to which the condition impedes enjoyment of the burdened property;

(d) if the condition is an obligation to do something, how-

- (i) practicable; or
- (ii) costly,

it is to comply with the condition;

(e) the length of time which has elapsed since the condition was created;

(f) the purpose of the title condition;

(g) whether in relation to the burdened property there is the consent, or deemed consent, of a planning authority, or the consent of some other regulatory authority, for a use which the condition prevents;

(h) whether the owner of the burdened property is willing to pay compensation;

(i) if the application is under section 90(1)(b)(ii) of this Act, the purpose for which the land is being acquired by the person proposing to register the conveyance; and

(j) any other factor which the Lands Tribunal consider to be material.

4. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully and accurately as you can. The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 90(1)(d)

*Application under section 90(1)(d) of the Title Conditions (Scotland) Act 2003
by an owner of a unit to preserve a development management scheme*

1. Name and address of applicant.

2. Unit in the development management scheme owned by the applicant.

3. Particulars of development management scheme.

- (a) Name and address of owners' association.
- (b) Name of granter and the registration date of the deed of application of the development management scheme.

4. Circumstances giving rise to application *(here give details of the notice received of a proposal to register a deed of disapplication, including the name and address of the person proposing to register. Alternatively a copy of the notice may be enclosed.).*

5. Date specified in that notice *(give the date by which an application for preservation must be made to the Lands Tribunal).*

6. Case for preservation *(here give a summary of the reasons for the application for preservation).*

I/We hereby apply for the preservation of the community burden described above.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

1. You should enclose with this application a copy of the deed of application of the development management scheme.

2. Section 99(4) of the Title Conditions (Scotland) Act reads as follows:-

An application for the preservation of a development management scheme shall, unless it falls to be granted as of right under subsection (1) above, be granted by the Lands Tribunal only if they are satisfied, in the case of an application-

(a) under paragraph (d) of section 90(1) of this Act, that the disapplication of the development management scheme or a real burden imposed by the deed of disapplication is not in the best interests of the owners of the units of the development or is unfairly prejudicial to one or more of those owners;

(b) under paragraph (e) of that section, that having regard to the purpose for which the land is being acquired by the person proposing to register the conveyance it is reasonable to grant the application.

3. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully and accurately as you can. The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 90(1)(e)

*Application under section 90(1)(e) of the Title Conditions (Scotland) Act 2003
by an owners' association to preserve a development management scheme*

- 1. **Name and address of applicant** (*owners' association*).
- 2. **Particulars of development management scheme** (*specify the name of the granter and the registration date of the deed of application*).
- 3. **Circumstances giving rise to application** (*here give details of the notice received of a proposal to register a conveyance including the name and address of the person proposing to register. Alternatively a copy of the notice may be enclosed.*)
- 4. **Date specified in that notice** (*give the date by which an application for preservation must be made to the Lands Tribunal*).
- 5. **Case for preservation** (*here give a summary of the reasons for preservation*).

I/We hereby apply for the preservation of the community burden described above.

Signed _____

Date _____

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. You should enclose with this application a copy of the deed of application of the development management scheme.
- 2. Section 99(4) of the Title Conditions (Scotland) Act reads as follows:-

An application for the preservation of a development management scheme shall, unless it falls to be granted as of right under subsection (1) above, be granted by the Lands Tribunal only if they are satisfied, in the case of an application-

- (a) under paragraph (d) of section 90(1) of this Act, that the disapplication of the development management scheme or a real burden imposed by the deed of disapplication is not in the best interests of the owners of the units of the development or is unfairly prejudicial to one or more of those owners;
- (b) under paragraph (e) of that section, that having regard to the purpose for which the land is being acquired by the person proposing to register the conveyance it is reasonable to grant the application.

- 3. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully and accurately as you can.

The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 91

Application under section 91 of the Title Conditions (Scotland) Act 2003 to vary or discharge a community burden

1. Names and addresses of applicants.

2. Particulars of community burden.

(a) Nature of community burden.

(b) Manner and date of creation of community burden (*describe the deed in which the community burden was created by reference to the names of the parties and date of registration or recording*).

3. Addresses of units in the community.

4. Details of Application (*here give a statement of the circumstances which have led to the application*).

5. Nature of application (*here state whether the application is for discharge or variation of the title condition, and if the latter specify what change is required*).

6. Statutory basis of application (*here specify which of the grounds in section 98 applies and give brief details of circumstances bearing on each of the factors referred to in section 100 of the Title Conditions (Scotland) Act 2003. Note that in relation to section 100(j) you should set out full detail of any other circumstances you wish the Tribunal to consider in support of your application.*)

We constitute owners of at least one quarter of the units in a community burdened by the above mentioned community burden. We hereby apply for the discharge/variation of the community burden.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

1. You should enclose with this application a copy of the conveyance, deed, instrument or writing under which the title condition was created, a large scale

plan of the location identifying adjacent properties and any grant of planning permission which has been obtained for any proposed development, with any plans relating to it.

2. Section 98 of the Title Conditions (Scotland) Act reads as follows:-

An application for the variation, discharge, renewal or preservation, of a title condition shall, unless it falls to be granted as of right under section 97(1) of this Act, be granted by the Lands Tribunal only if they are satisfied, having regard to the factors set out in section 100 of this Act, that-

- (a) except in the case of an application under subsection (3) of section 34 or, in respect of a deed of variation or discharge granted by the owner of an adjacent unit, subsection (1) of section 37 of this Act, it is reasonable to grant the application; or
- (b) in such a case, the variation or discharge in question-
 - (i) is not in the best interests of the owners of all the units in the community; or
 - (ii) is unfairly prejudicial to one or more of those owners.

3. Section 100 of the Title Conditions (Scotland) Act reads as follows:-

The factors mentioned in section 98 of this Act are-

- (a) any change in circumstances since the title condition was created (including, without prejudice to that generality, any change in the character of the benefited property, of the burdened property or of the neighbourhood of the properties);
- (b) the extent to which the condition-
 - (i) confers benefit on the benefited property; or
 - (ii) where there is no benefited property, confers benefit on the public;
- (c) the extent to which the condition impedes enjoyment of the burdened property;
- (d) if the condition is an obligation to do something, how-
 - (i) practicable; or
 - (ii) costly,it is to comply with the condition;
- (e) the length of time which has elapsed since the condition was created;
- (f) the purpose of the title condition;

- (g) whether in relation to the burdened property there is the consent, or deemed consent, of a planning authority, or the consent of some other regulatory authority, for a use which the condition prevents;
- (h) whether the owner of the burdened property is willing to pay compensation;
- (i) if the application is under section 90(1)(b)(ii) of this Act, the purpose for which the land is being acquired by the person proposing to register the conveyance; and
- (j) any other factor which the Lands Tribunal consider to be material.

4. Your application will be intimated to persons who may have an interest to oppose it. It is accordingly in your interest to ensure that you set out your description of any circumstances relied on as fully as you can. The Tribunal may allow new material to be introduced at a later stage but if this gives rise to expense which could have been avoided by a more careful application, the Tribunal will take that into consideration. You will not be allowed to introduce new material in the later stages of the case if the Tribunal thinks this would prejudice any objectors.

FORM TC 23

Application for certificate referred to in section 23 of the Title Conditions (Scotland) Act 2003

- 1. Name and address of applicant.**
- 2. The date specified for application to the Lands Tribunal in the notice of termination is (*specify date*).**

I confirm that I have intimated a notice of termination in terms of section 21 of the Title Conditions (Scotland) Act 2003 and attach copy of the notice and proof of intimation. I hereby apply for a certificate as referred to in section 23 of that Act.

Signed _____
Date _____

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. Where intimation of the Notice of Termination has been by sending a copy, enclose a list of the benefited proprietors, personal real burden holders and owners of the burdened property to whom intimation was sent and the corresponding recorded delivery confirmation slips.
- 2. Where intimation has been by affixed notice, enclose a copy of the notice

and confirm the locations at which it was displayed and the dates on which it was displayed.

3. Where intimation has been by advertisement, enclose a copy of the advertisement.

FORM TC 37

Application for certificate referred to in section 37 of the Title Conditions (Scotland) Act 2003

1. Name and address of applicant.

2. The date specified for application to the Lands Tribunal in the intimation of the proposal to register a deed of variation or discharge under section 33/section 35 of the above Act is (*specify date*).

I confirm that I have intimated a proposal to register a deed of variation or discharge under section 33/section 35 of the above Act and attach copy of the deed and proof of intimation. I hereby apply for a certificate as referred to in section 37 of the Title Conditions (Scotland) Act 2003.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. Intimation must have been given to such owners of the units in the community as have not granted the deed of variation or discharge.
- 2. For a proposed variation or discharge under section 33, intimation must be made by sending. For a proposed variation or discharge under section 35, intimation may be made by sending, by conspicuous notice or, if it is not possible to use a conspicuous notice, by advertisement.
- 3. Where intimation has been by sending, enclose a list of the owners to whom intimation was sent and the corresponding recorded delivery confirmation slips.
- 4. Where intimation has been by affixed notice, enclose a copy of the notice and confirm the locations at which it was displayed and the dates on which it was displayed.
- 5. Where intimation has been by advertisement, enclose a copy of the advertisement.

FORM TC 73

Application for certificate referred to in section 73(3) of the Title Conditions

(Scotland) Act 2003

1. Name and address of owners' association.

2. The date specified for application to the Lands Tribunal in the intimation of the proposal to register a deed of disapplication is (specify date).

We confirm that we have intimated a proposal to disapply a development management scheme and attach a copy of the deed and proof of intimation. We hereby apply for a certificate as referred to in section 73(3) of the Title Conditions (Scotland) Act 2003.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

Intimation must have been made by sending a copy of the deed of disapplication to every person who is the owner of a unit in the development. Enclose a list of the owners to whom intimation was sent and the corresponding recorded delivery confirmation slips.

FORM TC 86

Referral to the Lands Tribunal of a dispute in relation to assessment of value under section 86(5) of the Title Conditions (Scotland) Act 2003

1. Name and address of applicant.

2. Names and addresses of other parties to the dispute.

3. Grounds for dispute.

I hereby apply for a determination of the dispute referred to above.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

At any hearing relating to this application you will be required to adhere to the case set out above unless the Tribunal considers that the introduction of new material would not prejudice the interests of other parties.

FORM TC 102

Referral to the Lands Tribunal of a notice dispute under section 102 of the Title Conditions (Scotland) Act 2003

- 1. Name and address of applicant.
- 2. Names and addresses of other parties to the dispute.
- 3. Applicant's relationship to the land which is the subject of the notice.
(State whether the applicant is the owner of the burdened property or otherwise give details of the applicant's interest in the burdened property.)
- 4. Grounds for dispute.

I enclose a copy of the disputed notice. I hereby apply for a determination of the dispute referred to above.

Signed _____

Date _____

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. As well as the disputed notice it will usually be helpful to the Tribunal to enclose with this application a copy of the deed under which the real burden or negative servitude was created and a large scale plan of the location identifying adjacent properties.
- 2. At any hearing relating to this application you will be required to adhere to the case set out above unless the Tribunal considers that the introduction of new material would not prejudice the interests of other parties.

FORM AFT 20

Application for reallocation of a real burden by order of the Lands Tribunal under section 20 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000

- 1. Name and address of applicant.
- 2. Particulars of real burden.
 - (a) Nature of real burden.
 - (b) Manner and date of creation of real burden *(describe the deed in which the real burden was created by reference to the names of the parties and date of registration or recording).*
- 3. Description of prospective servient tenement.

4. Description of prospective dominant tenement.

5. Name and address of the person who has right to the feu.

6. Description of attempt to reach agreement with the person who has right to the feu.

7. Statutory basis of application. If the real burden were to be extinguished there would be material detriment to the value or enjoyment of the applicant's ownership of the dominant tenement because (*specify reasons*).

I/We hereby apply for the reallocation of the real burden referred to above.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1.** You should enclose with this application a copy of the deed under which the real burden was created and a large scale plan of the location identifying adjacent properties.
- 2.** At any hearing relating to this application you will be required to adhere to the case set out above unless the Tribunal considers that the introduction of new material would not prejudice the interests of other parties.

FORM AFT 44

Referral to the Lands Tribunal of a notice dispute under section 44 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000

- 1. Name and address of applicant.**
- 2. Names and addresses of other parties to the dispute.**
- 3. Applicant's relationship to the land which is the subject of the notice.** (*State whether the applicant is the owner of the prospective servient tenement or otherwise give details of the applicant's interest in the prospective servient tenement.*)
- 4. Grounds for dispute.**

I enclose a copy of the disputed notice. I hereby apply for a determination of the dispute referred to above.

Signed

Date

(To be signed by the applicant or by the applicant's solicitor, who should add a designation and the words: Agent of the said AB)

NOTES FOR THE INFORMATION OF APPLICANTS

- 1. As well as the disputed notice it will usually be helpful to the Tribunal to enclose with this application a copy of the deed under which the real burden was created and a large scale plan of the location identifying adjacent properties.
- 2. At any hearing relating to this application you will be required to adhere to the case set out above unless the Tribunal considers that the introduction of new material would not prejudice the interests of other parties.

SCHEDULE 3

Rule 30

<i>Column 1</i>	<i>Column 2</i>
<i>Rules Revoked</i>	<i>References</i>
Part I, Part II, Part III, Part VI and Forms 1, 2 and 3 of Schedule 1 to the Lands Tribunal for Scotland Rules 1971	S.I. 1971/218
Part VB and Form 6 inserted by the Lands Tribunal for Scotland (Amendment) Rules 1977	S.I. 1977/432
Part VC and Form 7 inserted by the Lands Tribunal for Scotland (Amendment) Rules 1985	S.I. 1985/581
Items 1, 7 and 13 of the Schedule to the Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996	S.I. 1996/519

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules replace Part I, II, III, VI, VB and VC of the Lands Tribunal for Scotland Rules 1971. Parts IV, V and VA of the 1971 Rules remain in force together with Part VI of those Rules insofar as it affects the Parts remaining in force. The Parts which remain in force refer to matters which are reserved in terms of the Scotland Act 1998.

Part I of these Rules deals with applications to the Lands Tribunal for Scotland ("the Tribunal") under the Abolition of Feudal Tenure etc. (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003. Schedule 1 contains a list of application forms under these two Acts and these forms, among others, are set out in Schedule 2. The applications available under Part I are for reallocation of a feudal burden, for the discharge, variation or renewal of a title condition, the preservation of a community burden or the preservation of a development management scheme. The forms may also be used to obtain certificates from the Tribunal confirming whether an application has been made, to refer disputes over notices served under these two Acts and to refer disputes over the

assessment of value of a former school site.

Part II deals with the determination by the Tribunal of questions of disputed compensation including questions arising on the compulsory acquisition of land by a public authority.

Part III makes provision for the Tribunal to deal with "blight notices" under the Town and Country Planning (Scotland) Act 1997.

Part IV makes provision for procedure for determination by the Tribunal of appeals referred to it by valuation appeal committees in accordance with section 1(3A) of the Lands Tribunal Act 1949. Rule 28(6) provides that the Tribunal shall not have power to make orders for expenses between parties in such cases.

Part V contains general procedural provisions. Rule 30 saves the general provisions in Part VI of the 1971 Rules which will continue to apply in respect of Parts IV, V and VA of those Rules which have not been replaced by these Rules.

Schedule 1 contains a list of applications and application forms under the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003. Schedule 2 contains all of the application forms referred to in the Rules. Schedule 3 contains a list of Rules which are being revoked.

Notes:

[1] 1949 c.42. Section 3 was amended by section 50(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35) and by S.I. 1972/2002. The functions of the Lord Advocate were transferred to the Secretary of State for Scotland by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678) and to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). The requirement to obtain Treasury consent was removed by section 55 of that Act.[back](#)

[2] 2003 asp 9.[back](#)

[3] 1992 c.53.[back](#)

[4] 2000 asp 5.[back](#)

[5] 1963 c.51.[back](#)

[6] 1997 c.8.[back](#)

[7] S.I. 1995/572[back](#)

[8] Section 3 was amended by section 50(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35).[back](#)

[9] 1980 c.65.[back](#)

[10] S.I. 1996/519[back](#)

[11] S.I. 1971/218.[back](#)

ISBN 0 11 062472 6

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Prepared 6 October 2003