

## Registers Update - Updating Registered Titles

UPDATE: 10.6

This is the latest in a series of updates dealing with the registration aspects of the feudal reform and title conditions legislation. It outlines the approach that the Keeper will take to updating registered title sheets in accordance with the Abolition of Feudal Tenure etc. (Scotland) Act 2000 ("the 2000 Act") and Title Conditions (Scotland) Act 2003 ("the 2003 Act").

Previous updates provide information on the appointed day (28 November 2004), feudal conveyances, constitution of real burdens, new deed types, Sasine Application Form and LR Forms, and superiority and mixed fee titles.

### Background

Registers Update 10.1 explained the relevant provisions of the 2000 Act and the 2003 Act that confer upon the Keeper discretion to treat extinguished real burdens as subsisting, and also the position with regard to applications for removal of extinguished real burdens, during the 10 year transitional period from the appointed day.

Registers Update 10.5 explained that over the course of the 10 year transitional period the Keeper will undertake a programme to update registered Land Register titles to conform to the provisions of the legislation with regard to the removal of extinguished burdens and the addition of appropriate statements where burdens will continue to subsist.



As noted in more detail in Registers Update 10.5, the relevant provisions of the 2000 Act and the 2003 Act respectively have the following effect:

Section 17 of the 2000 Act extinguished the superior's right to enforce real burdens, subject to saving provisions. Under subsection (1) any real burden enforceable only by a superior was extinguished on the appointed day.

Part 4 of the 2003 Act abolished enforcement rights implied by common law but provided a preservation procedure and recreated some of these rights on a statutory basis. In future it will not be possible to create implied rights. Sections 52 to 56 of the 2003 Act and section 60 of the 2000 Act detail the circumstances whereby a burden will subsist, for example:

- Where real burdens are imposed under a common scheme expressly referred to;
- Where real burdens imposed on a common scheme are mutually enforceable by the owners of each property within that scheme;
- Where real burdens are imposed on sheltered housing; and
- Where real burdens are facility or service burdens

### Updating Title Sheets

There are in excess of one million Title Sheets in the Land Register, most of which will contain burdens that were extinguished by the legislation on the appointed day. Of these, many will also contain burdens which are saved by the above mentioned provisions.

The Keeper will be carrying out a programme to update these titles over the course of the transitional period. This will begin in late April as a pilot that will run for up to six months. This will give us the opportunity to evaluate and refine the procedures. The pilot will commence with the county of East Lothian. The Keeper will use the experience gained from the pilot to prepare an indicative plan for the remaining counties to be updated throughout the 10 year transitional period. The plan will be updated annually. The Keeper will communicate the plan to the profession.

