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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 313**

**TITLE CONDITIONS  
TENEMENTS**

**The Notice of Potential Liability for Costs  
(Discharge Notice) (Scotland) Order 2014**

*Made* - - - - 13th November 2014  
*Laid before the Scottish  
Parliament* - - - - 17th November 2014  
*Coming into force* - - 16th December 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by section 10A(3B)(a) of the Title Conditions (Scotland) Act 2003<sup>(1)</sup> and section 13(3B)(a) of the Tenements (Scotland) Act 2004<sup>(2)</sup>, and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Notice of Potential Liability for Costs (Discharge Notice) (Scotland) Order 2014 and comes into force on 16th December 2014.

**Notice of discharge under the Title Conditions (Scotland) Act 2003**

2. The notice of discharge referred to in section 10A(3A) of the Title Conditions (Scotland) Act 2003 is to be in the form set out in Schedule 1.

**Notice of discharge under the Tenements (Scotland) Act 2004**

3. The notice of discharge referred to in section 13(3A) of the Tenements (Scotland) Act 2004 is to be in the form set out in Schedule 2.

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(1) 2003 asp 9 (“the 2003 Act”). Section 10A(3A) and (3B) is inserted by section 86(1) of the Housing (Scotland) Act 2014 (asp 14) (“the 2014 Act”). Section 86(1) was brought into force on 13th November 2014 by S.S.I. 2014/264 so far as is necessary to enable the Scottish Ministers to make an order under section 10A(3B)(a) of the 2003 Act.

(2) 2004 asp 11 (“the 2004 Act”). Section 13(3A) and (3B) is inserted by section 86(2) of the 2014 Act. Section 86(2) was brought into force on 13th November 2014 by S.S.I. 2014/264 so far as is necessary to enable the Scottish Ministers to make an order under section 13(3B)(a) of the 2004 Act.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St Andrew's House, Edinburgh  
13th November 2014

*M J BURGESS*  
Authorised to sign by the Scottish Ministers

# FORM OF DISCHARGE NOTICE (SCOTLAND) AC

## **NOTICE OF DISCHARGE OF A NOTICE OF POTENTIAL LIABILITY FOR COSTS UNDER THE TITLE CONDITIONS (SCOTLAND)**

This notice is given by the owner of a burdened property where the liability for costs has not expired, the liability for costs under section 1(1) of the Title Conditions (Scotland) Act 2003 to which the notice of potential liability relates, or the person who registered the notice of potential liability, to be discharged.

Registration of this notice discharges the notice of potential liability for costs which it applies to the subjects described below.

### **Property to which the discharge relates:**

*(see note 1 below)*

### **Details of the notice of potential liability for costs (including interest and maintenance) to which the discharge relates:**

*(see note 2 below)*

### **Consenting person who registered the notice of potential liability for costs:**

*(see note 3 below)*

### **Signature of consenting person who registered the notice of potential liability for costs:**

3. Give the name and address of the person who registered to which this notice of discharge relates, or that person's person's agent.

4. This notice must be signed by or on behalf of the person liable for costs and who consents to the registration of to be self-proving in order to be accepted by the Keeper

# FORM OF DISCHARGE NOTICE – T ACT 2004

## **NOTICE OF DISCHARGE OF A NOTICE OF POTENTIAL LIABILITY FOR COSTS UNDER THE TENEMENTS (SCOTLAND) ACT 2004**

This notice is given by the owner of a flat in relation to which a notice of potential liability for costs has not expired, the liability for costs under section 10 of the Tenements (Scotland) Act 2004 to which the notice of potential liability relates has expired, and the person who registered the notice of potential liability for costs has consented to the discharge.

Registration of this notice discharges the notice of potential liability for costs and applies to the subjects described below.

### **Flat to which the discharge relates:**

*(see note 1 below)*

### **Details of the notice of potential liability for costs (including for the cost of maintenance) to which the discharge relates:**

*(see note 2 below)*

### **Consenting person who registered the notice of potential liability for costs:**

*(see note 3 below)*

### **Signature of consenting person who registered the notice of potential liability for costs:**

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order prescribes the form of notices of discharge in respect of notices of potential liability for costs under the Title Conditions (Scotland) Act 2003 (“the 2003 Act”) and the Tenements (Scotland) Act 2004 (“the 2004 Act”).

A notice of potential liability for costs may be registered against a property in accordance with section 10(2A) of the 2003 Act or section 12(3) of the 2004 Act, with the effect that an incoming owner of that property may be liable for outstanding costs relating to certain maintenance or work. The notice of potential liability expires after three years, unless it is renewed.

Section 10A(3A) of the 2003 Act and section 13(3A) of the 2004 Act, as inserted by section 86 of the Housing (Scotland) Act 2014, provide that an unexpired notice of potential liability for costs may be discharged if the liability to which it relates has been discharged and the person who registered it consents. The form of a notice of discharge is set out in Schedule 1 (in respect of the 2003 Act) and Schedule 2 (in respect of the 2004 Act).