

*These notes relate to the Abolition of Feudal Tenure etc. (Scotland)
Act 2000 (asp 5) which received Royal Assent on 14 July 2000*

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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Commentary on Sections

Part 3: Feuduties

Section 16: Interpretation of Part 3

65. This section defines certain terms used in Part 3 of the Act.
66. *Subsection (1)* makes it clear that blench duty is extinguished along with feuduty. This arises where land is held under blench tenure. It has been described as a small illusory rent which is rarely collected. *Subsection (1)* also defines “vassal” for the purposes of liability for compensation. The feudal meaning of the term is extended to include a person who has right to the feu even if that person’s title has not been completed. This is to take account of the situation where property is in the process of changing hands before the appointed date of abolition. A purchaser could otherwise avoid liability for compensation simply by delaying registration until after the appointed day. The seller would then be left with the bill.
67. The definitions of “cumulo feuduty” and “feu” cover the case where part of the cumulo has been allocated. The definition of “cumulo feuduty” in *subsection (2)* embraces (a) the whole cumulo feuduty where no part has been allocated and (b) the unallocated balance of a cumulo remaining exigible from more than one part of a feu where part has already been allocated. The definition of “feu” in *subsection (3)* embraces (a) the original feu where there has been no allocation of the cumulo, (b) those parts of a feu which are subject to the unallocated balance of a cumulo and (c) each part of a feu on which part of a cumulo has been allocated.
68. *Subsection (4)* makes it clear that where a feu or any part of a feu is held as common property, the former superior may recover all of the compensation from one of the co-owners, subject to a right of relief based on the size of their pro indiviso share. Any co-owner could therefore be called upon to pay the former superior, but would then have a right of relief against fellow owners.