

*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 4: Real Burdens

Section 27: Notice preserving right to enforce conservation burden

120. This section permits a superior which is also a conservation body, and the Scottish Ministers, to preserve burdens concerned with conservation.
121. *Subsection (1)* explains how the burdens are to be preserved. The words "for the benefit of the public" are intended to ensure that the preservation of conservation burdens in the future must be in the public interest. The conservation body must register a notice before the appointed day for abolition of the feudal system in the Land Register or Register of Sasines. If no notice is registered, the burdens will be extinguished under section 17 (extinction of superior's rights). This subsection makes it clear that, where a conservation body has not completed title, the saving provisions will operate in circumstances where the body would be able to enforce the burden if it were to complete title. This also applies to Scottish Ministers.
122. *Subsection (2)* sets out the type of burden which may be preserved. The purpose of the burdens must be to preserve or protect the architectural or historical characteristics of the land or any other special characteristics of the land (including, without prejudice to the general rule, a special characteristic derived from the flora, fauna or general appearance of the land).
123. *Subsection (3)* sets out the content of the notice. The notice must follow the form given in schedule 8.