

*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 6: Miscellaneous

Section 67: Prohibition on leases for periods of more than 175 years

209. The prohibition on leases for periods of more than 175 years is designed to prevent the feudal system from being replaced by a system of leasehold tenure with many of the same defects. Leases of residential property are already restricted to 20 years by section 8 of the Land Tenure Reform (Scotland) Act 1974. There is, however, no restriction on the length of other leases. Leases of 999 years or longer have at times been common in certain areas of Scotland.
210. *Subsection (1)* provides that no lease of land executed after the section comes into force on Royal Assent may continue for longer than 175 years. Leases, whatever their term, will come to an end automatically when the end of the 175 year period is reached.
211. *Subsection (2)* prohibits the use of leases containing obligations to renew in order to avoid the effect of subsection (1).
212. "Tacit relocation" is the legal doctrine whereby a lease may be tacitly continued for up to a year at a time if the tenant continues in occupation and nothing is done to bring the lease to an end. *Subsection (3)* makes it clear that tacit relocation is not affected by section 67. *Subsection (3)* also preserves the effect of any enactment under which the duration of a lease may be extended (for example the Tenancy of Shops (Scotland) Acts 1949 and 1964).
213. *Subsection (4)* stipulates 3 exceptions to the rule that non-residential leases should be subject to a limit of 175 years. First, the rule will not apply where a contractual obligation (such as missives) was entered into prior to Royal Assent to grant a lease in excess of the prohibited duration. Second, the 175 years rule will not apply to a lease executed before Royal Assent which has been renewed after Royal Assent in implement of a provision of that lease. This is to cover the position of, for example, Blairgowrie leases which are for 99 years but contain an obligation for automatic renewal at the end of the 99 years for a further 99 years and would thus exceed the proposed limit of 175 years. Last, the 175 years rule will not apply to circumstances where a lease has been entered into before Royal Assent which still has more than 175 years to run and it is desired to grant a sublease for the full residue of the head lease.