

*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

FINANCIAL MEMORANDUM

Introduction

Development value burdens

253. Compensation will also be payable for the loss of the right to certain real burdens which reserved development value to the superior - where the price was reduced or waived altogether in return for the burden restricting development - on the occurrence of such development within 20 years of the abolition of the feudal system. Typically, this might happen if land was feued for charitable, religious, public or amenity purposes, but is later freed to be sold on the open market or used for other purposes. Compensation will only be payable if the superior has, before the appointed day of abolition, registered a notice reserving the right to claim compensation for the loss of such a burden. Clearly there will be administrative and other costs (including registration dues) incurred by the superior in registering such a notice, but it is entirely a matter of choice for the superior whether he wishes to retain the right to claim compensation in these circumstances
254. The quantum of the compensation is set at the increase in the value of the land which would have resulted from a modification of the burden so as to allow the development which has actually occurred. For example, if the burden prohibited all building on the land, and the owner has built a small shed, the compensation would be based on the difference in value of the land when it cannot be used for such purpose and its value when freed for such purpose. The total amount of compensation which is payable in respect of any development value burden (including where more than one claim is submitted over time in respect of that burden) is limited to the sum which will make up for any effect which the burden produced, at the time when it was imposed, in reducing the price then paid for the feu. The compensation would be payable by the owner of the land at the time the shed was built.