

# **TITLE CONDITIONS (SCOTLAND) ACT 2003**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 11: Savings, Transitional and General**

#### ***Schedule 13: Amendment of Abolition of Feudal Tenure etc. (Scotland) Act 2000***

#### ***Paragraph 2.***

528. Section 17(1) of the 2000 Act extinguishes superiors' rights to enforce real burdens, subject to some savings. The amendments add further savings. Section 18A (on personal pre-emption burdens and personal redemption burdens), section 18B (on economic development burdens), section 18C (on health care burdens) and section 27A (on conservation burdens) are new sections inserted by section 114 of the Act. Sections 52 to 56 of the Act create new enforcement rights for existing burdens in place of the implied enforcement rights which are extinguished by section 49 of the Act. Section 56 replaces section 23 of the 2000 Act (which is repealed by schedule 15). The saving for manager burdens is the counterpart of section 63(10).
529. The change to paragraph (b) of section 17(1) is to ensure that it is only a person's right to enforce a burden as a feudal burden that is extinguished on the appointed day. If the same person can enforce a burden in another capacity, for example as the owner of nearby land or as the holder of a conservation burden, health care burden or economic development burden then this right to enforce is unaffected.
530. The introduction of the new paragraph (aa) into subsection (3) of section 17 ensures that where there is an ongoing action or an existing decree or interlocutor as at the appointed day in respect of a feudal burden then this will be unaffected if the right to enforce the burden is preserved under one of the provisions mentioned in section 17(1).