

*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 26: Conservation Bodies

116. This is the first of a number of sections dealing with conservation burdens. In some cases superiors may be viewed as exercising their rights at least partly in the public interest. Superiors falling into this category might include the National Trust for Scotland and conservation trusts. For example, in selling a building which it has recently restored, a conservation trust might wish to impose real burdens in order to prevent inappropriate alteration and to ensure future standards of maintenance. Since the trust will rarely own neighbouring land, it is likely to sell by feu disposition, and its right to enforce the burdens will then be tied to the reserved superiority. Arrangements of this kind will not survive feudal abolition, unless a special saving is put in place. *Section 26* provides for the Scottish Ministers to prescribe by subordinate legislation a list of conservation bodies who will be entitled to preserve conservation burdens.
117. *Subsection (2)* sets out the criteria for a body to be included on the list. The definition of the type of body which may be prescribed as a conservation body is intended to be broad enough to catch all the bodies who have a function or object of preserving or protecting for the benefit of the public the architectural, historical or other special characteristics of land.
118. Since trusts are not separate legal persons, *subsection (3)* makes it clear that the conservation body would be the trustees.
119. *Subsection (4)* allows bodies to be removed from the list.