

*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**

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## **EXPLANATORY NOTES**

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#### *Commentary on Sections*

#### **Part 4: Real Burdens**

#### *Section 25: Counter-obligations on reallocation*

115. This section makes it clear that the acquisition of superiors' enforcement rights under sections 18 (reallocation of real burden by nomination of new dominant tenement), 19 (reallocation of real burden by agreement), 20 (reallocation of real burden by order of Lands Tribunal) or 23 (reallocation of real burden affecting facility of benefit to other land etc.) is subject to compliance with any counter-obligations which were binding on the superior. In the case of section 18, the counter-obligations require to be listed in the initial notice (see section 18(2)(e)). For example, if a superior could exact the cost of maintaining a facility only subject to an obligation to carry out the necessary work, any post-abolition successor will be similarly obliged. Similar provision also applies in respect of burdens saved by agreement under section 19 or the subject of an application to the Lands Tribunal under section 20. Under section 47 (extinction of counter-obligation), a counter-obligation is extinguished with the extinction of the burden to which it relates.