

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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Commentary on Sections

Part 6: Miscellaneous

Section 63: Baronies and other dignities and offices

195. This section deals with the effect of the abolition of the feudal system of land tenure on feudal baronies. A barony title is a feudal grant of land directly from the Crown as superior conferring baronial privileges and responsibilities. The estate and land, which can be bought and sold in the normal way, might be no more than a tiny plot of wasteground, of little or no value in itself, which represents the head place of the barony. But ownership of such an estate and land enables the owner to adopt the title of "Baron of ...". A market in Scottish Baronies has developed in recent years and the expected price for a barony, with no special features and a minimal amount of land of no value, is (the Scottish Law Commission advise in their Report) about £60,000.
196. There are 3 special features of barony titles. First, certain conveyancing peculiarities are attached to them. Secondly, the holder of land on a barony title still has, in theory but not in practice, the right to hold a baron's court. Thirdly, the holder of land on a barony title has the right to use the title of baron and, if granted armorial bearings by the Lord Lyon, to add certain special baronial features to the coat of arms. Such baronies are not an aspect of the constitution and have nothing to do with the Crown, except in so far as the Crown is the feudal superior of the land in question.
197. *Subsection (1)* abolishes any surviving criminal or civil jurisdiction of barony courts. Such jurisdiction is obsolete for all practical purposes. Subsection (1) also abolishes any conveyancing privileges incidental to a barony, such as the ability to convey the barony lands by a general description or the ability to acquire a right to salmon fishings by prescription even though they are not expressly mentioned in the titles to the land. Subsection (1) expressly preserves the dignity of baron, which is derived from the direct connection with the Crown as feudal superior of the land held in barony, and any other dignity or office whether or not of feudal origin. The reference to offices is intended to make clear that the abolition of the feudal system will not affect ancient offices in, for example, the Royal Household which might be regarded as relics from the feudal era.
198. *Subsection (2)* provides that the retained dignity of baron will no longer attach to the land. It will be a floating dignity which can be bought and sold as incorporeal heritable property and may be bequeathed by will in the normal way. If a baron dies intestate, the barony would transmit to the eldest son or other heir in accordance with the pre-1964 rules on intestate succession which were preserved by the Succession (Scotland) Act 1964 for "any title, coat of arms, honour or dignity transmissible on the death of the holder". For the avoidance of doubt, it is provided that baronies will not be registrable in

*These notes relate to the Abolition of Feudal Tenure etc. (Scotland)
Act 2000 (asp 5) which received Royal Assent on 14 July 2000*

the Land Register and that deeds relating to them will not be recordable in the Register of Sasines. In this way, the social, ceremonial and armorial aspects of baronies will be severed from land ownership and baronies will become non-territorial dignities.

199. *Subsection (3)* is a savings provision for existing heritable securities over barony titles. It makes it clear that from the appointed date of abolition, a security over the former dominium utile will continue (until discharge) to attach to the land and the dignity of baron and the security over the former dominium directum will continue to attach to the dignity alone.
200. *Subsection (4)* makes it clear that "conveyancing privilege" covers, for example, the special rule relating to prescription to salmon fishings and that the reference to "dignity" includes matters of heraldry and precedence incidental to a dignity, such as the addition of certain special baronial features to a coat of arms.