

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

FINANCIAL MEMORANDUM

Costs on the Scottish Administration

260. Abolition of the feudal system will impact on the Scottish Administration in three ways. First, there may be resource implications for the Lands Tribunal for Scotland. Second, there may be claims for legal aid from those involved in applications to the Lands Tribunal. Third, the Scottish Ministers will hold property both as superior and vassal including property which has transferred to them following devolution from the Secretary of State for Scotland or other Ministers of the Crown.

Lands Tribunal for Scotland

261. [Section 20](#) of the Act permits a superior to apply to the Lands Tribunals for Scotland to preserve a burden in circumstances where loss of the burden would cause him substantial loss or disadvantage. The superior must first, however, have attempted to reach an agreement with the vassal under section 19, that the burden or burdens should be preserved.
262. It is impossible to estimate how many such applications to the Lands Tribunal are likely to arise, partly because of the filtering action of section 19. A superior will also be entitled to preserve a burden under section 18 if the land subject to the burden falls within 100 metres of a permanent building used for human habitation or resort on the superior's land. There is a test of substantial loss or disadvantage to be overcome for the superior's application to the Lands Tribunal for Scotland to succeed and superiors will be aware of this when assessing whether or not to make an application to the Lands Tribunal under section 20. In terms of numbers of applications to the Lands Tribunal, the Act may be broadly neutral. Although there will be applications under section 20 of the Act, there may be a reduced number of applications under section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970 by vassals seeking to vary or discharge feudal conditions affecting their property. Such burdens will automatically fall after the appointed day of abolition unless the superior has taken steps to preserve them under the provisions of the Act. Applications under section 1 will still be competent in relation to non-feudal burdens.
263. Although no estimate can be placed on the likely demands to be made of the Lands Tribunal, they are unlikely to be significant.

Legal aid

264. Legal aid will be available both to applicants and those seeking to oppose applications to the Lands Tribunal under section 20, providing the individuals meet the requisite criteria. It is not thought that such applications will impose a significant strain on the legal aid budget.

The Scottish Ministers' estate

265. As one of the major landowners in Scotland, the Scottish Ministers have substantial superiority interests. There will therefore be administrative costs in firstly establishing what superiority interests the Scottish Ministers have and secondly in deciding whether any attempt should be made to preserve feudal burdens imposed in the past under the provisions of the Act. This work will be carried out using existing resources.