

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 13.

540. Section 73 of the 2000 Act makes provision for the automatic translation of certain feudal terms which might be found in deeds or enactments dating from before the appointed day but having to be applied after that date. The amendments make some minor changes to the timing of the provisions in section 73. The amendment in sub-paragraph (b)(iii) reflects the repeal of section 23 of the 2000 Act and its replacement by section 56 of the Act (which provides for the preservation and creation of rights to enforce facility burdens).
541. The new subsection (2A) inserted by sub-paragraph (c) provides that a provision in a document or in an entry in the Land Register which states that a real burden may be waived with the consent of a stated party shall be disregarded unless the reference in the document or entry is a reference to a superior and that reference is in terms of section 73(2) of the 2000 Act to be construed as a reference to the person entitled to enforce under one of the provisions listed in that subsection.