

*These notes relate to the Title Conditions (Scotland) Act
2003 (asp 9) which received Royal Assent on 3 April 2003*

TITLE CONDITIONS (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Conservation and Other Personal Real Burdens

Section 40: Enforcement where no completed title

185. A real burden may be enforced only by a person who has both title and interest to do so (section 8(1)). *Section 40* is concerned with title. The relevant conservation body will have title to enforce the burden even if its right has not been registered. The meaning of 'holder' is given in section 122(1) as the person who has right to the title condition. The holder of a conservation burden is thus the relevant conservation body or, as the case may be, the Scottish Ministers.