

# TITLE CONDITIONS (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8: Pre-Emption and Reversion**

##### *Section 82: Application and interpretation of sections 83 and 84*

334. The effect of *section 82* is to apply the provisions of section 83 and 84 to the same types of pre-emption that are covered by section 9 of the Conveyancing Amendment (Scotland) Act 1938. These are the pre-emptions that are restricted to a single opportunity to accept or refuse an offer to sell. This restriction applies to all pre-emptions ever created in feudal burdens and all other pre-emptions created after 1 September 1974 with the exception of rural housing burdens. Either the holder of the right of pre-emption must accept the offer (normally mirroring the terms of a bid from a third party) or the pre-emption is lost.
335. ‘Title condition’ is defined in section 122(1). It is wider than real burden and includes, for example, pre-emptions created in long leases.
336. The scope of paragraph (a) is likely to be limited. Many feudal pre-emptions have already been extinguished under section 9 of the 1938 Act. Those which remain will be extinguished on the appointed day by section 17(1) of the 2000 Act unless reallocated under sections 18, 18A, 19 or 20 of that Act.