

*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 9: Powers of the Lands Tribunal

Section 100: Factors to which the Lands Tribunal are to have regard in determining applications etc.

399. In considering the reasonableness of an application in terms of section 98, the Tribunal must have regard to the factors set out in *section 100*. This is an innovation on the previous law where the grounds for a ruling by the Tribunal were distinct and one ground could be considered in isolation. Section 100 amends the grounds used under the Conveyancing and Feudal Reform (Scotland) Act 1970 and treats them as a series of indicators as to whether or not an application should be granted. For most types of application there is a test of reasonableness (see section 98) which would be assessed by reference to a number of specific factors. The Tribunal will evaluate all of the relevant factors to determine whether it is reasonable to discharge, vary, preserve or renew a title condition. Not all factors will be relevant to every application. Nor — see factor (j) — are they intended to be exhaustive.