



Title Conditions (Scotland) Act 2003

2003 asp 9

PART 3

CONSERVATION AND OTHER PERSONAL REAL BURDENS

Conservation burdens

38 Conservation burdens

- (1) On and after the day on which this section comes into force it shall, subject to subsection (2) below, be competent to create a real burden in favour of a conservation body, or of the Scottish Ministers, for the purpose of preserving, or protecting, for the benefit of the public—
 - (a) the architectural or historical characteristics of any land; or
 - (b) any other special characteristics of any land (including, without prejudice to the generality of this paragraph, a special characteristic derived from the flora, fauna or general appearance of the land);and any such burden shall be known as a “conservation burden”.
- (2) If under subsection (1) above the conservation burden is to be created other than by the conservation body or the Scottish Ministers, the consent of—
 - (a) that body to the creation of the burden in its favour; or
 - (b) those Ministers to the creation of the burden in their favour,must be obtained before the constitutive deed is registered.
- (3) It shall not be competent to grant a standard security over a conservation burden.
- (4) The Scottish Ministers may, subject to subsection (5) below, by order, prescribe such body as they think fit to be a conservation body.
- (5) The power conferred by subsection (4) above may be exercised in relation to a body only if the object, or function, of the body (or, as the case may be, one of its objects or functions) is to preserve, or protect, for the benefit of the public such characteristics of any land as are mentioned in paragraph (a) or (b) of subsection (1) above.
- (6) Where the power conferred by subsection (4) above is exercised in relation to a trust, the conservation body shall be the trustees of the trust.

Status: This is the original version (as it was originally enacted).

- (7) The Scottish Ministers may, by order, determine that such conservation body as may be specified in the order shall cease to be a conservation body.