

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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Commentary on Sections

Part 3: Feuduties

Section 8: Requiring compensatory payment

37. *Section 8* permits a former superior to claim compensation from a former vassal for feuduty extinguished under section 7 by serving a notice on the vassal in the appropriate form. The amount of compensation will be calculated in accordance with section 9. It is an ordinary unsecured debt. If no request for compensation is made, no liability arises.
38. *Subsection (1)* requires the notice demanding compensation to stipulate the sum due by the former vassal. The notice will have to be served within 2 years of the appointed date of abolition. Service would constitute the debt and trigger liability. Failure to serve within the 2 year period would extinguish any right to compensation.
39. *Subsection (2)* makes provision for a cumulo feuduty (which is defined in section 16(2)). Many older feus have come to be divided into smaller parts. The feuduty might be formally allocated among the fragmented parts so that each vassal is liable for a share. There is a possibility, however, that the feuduty will be an unallocated cumulo affecting the whole feu. In theory, the superior is entitled to recover the full amount of feuduty from any one vassal leaving that vassal to pursue neighbours to contribute a share. This provision, however, requires a separate notice to be served in respect of a cumulo feuduty on each former vassal in respect of the sum due by that vassal (see section 9(3) and (4) in relation to the share due by each vassal for a cumulo feuduty). A statutory form of notice is prescribed for such a feuduty in schedule 1.
40. *Subsection (3)* prescribes a statutory form of notice contained in schedule 2 for other feuduties.
41. *Subsection (4)* requires the prescribed explanatory note to be served with each notice of compensation. The note set out in schedule 1 applies for cumulo feuduties and that in schedule 2 for other feuduties.
42. *Subsection (5)* gives a vassal 8 weeks from service of the notice to pay the sum due. This is subject to the provisions for payment by instalments specified in section 10.