



Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

PART 4

REAL BURDENS

Extinction of superior's rights

17 Extinction of superior's rights

- (1) Subject to sections 18 [^{F1}to 18C], 19, 20, ^{F2}. . . 27, [^{F3}27A,] 28 [^{F4}28A,] and 60 of this Act [^{F5}and to sections 52 to 56 (which make provision as to common schemes, facility burdens and service burdens) and 63 (which makes provision as to manager burdens) of the Title Conditions (Scotland) Act 2003 (asp 9)]—
- (a) a real burden which, immediately before the appointed day, is enforceable by, and only by, a superior shall on that day be extinguished; and
 - (b) any other real burden shall, on and after that day, not be enforceable by a former superior [^{F6}other than in that person's capacity as owner of land or as holder of a conservation burden, health care burden or economic development burden].
- (2) Subject to subsection (3) below and to the provision made by section 20 of this Act for there to be a transitional period during which a real burden shall yet be enforceable—
- (a) on or after the appointed day, no proceedings for such enforcement shall be commenced;
 - (b) any proceedings already commenced for such enforcement shall be deemed to have been abandoned on that day and may, without further process and without any requirement that full judicial expenses shall have been paid by the pursuer, be dismissed accordingly; and
 - (c) any decree or interlocutor already pronounced in proceedings for such enforcement shall be deemed to have been reduced, or as the case may be recalled, on that day.
- (3) Subsection (2) above shall not affect any proceedings, decree or interlocutor in relation to—

Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, Section 17 is up to date with all changes known to be in force on or before 23 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a right of irritancy held by a superior; or
- [^{F7}(aa) a right of enforcement held by virtue of any of the provisions mentioned in subsection (1) above;]
- (b) a right to recover damages or to the payment of money.

Textual Amendments

- F1** Words in s. 17(1) inserted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(a)(i)** (with ss. 119, 121)
- F2** Words in s. 17(1) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), **sch. 15** (with ss. 119, 121)
- F3** Words in s. 17(1) inserted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(a)(ii)** (with ss. 119, 121)
- F4** Words in s. 17(1) inserted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(a)(iii)** (with ss. 119, 121)
- F5** Words in s. 17(1) inserted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(a)(iv)** (with ss. 119, 121)
- F6** Words in s. 17(1)(b) added (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(a)** (with ss. 119, 121)
- F7** S. 17(3)(aa) inserted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), **sch. 13 para. 2(b)** (with ss. 119, 121)

Modifications etc. (not altering text)

- C1** S. 17(1) excluded (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), **ss. 63(9)**, 129(3) (with ss. 119, 121)

Changes to legislation:

Abolition of Feudal Tenure etc. (Scotland) Act 2000, Section 17 is up to date with all changes known to be in force on or before 23 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18C(1) words repealed by [2004 asp 7 sch. 2](#)
- s. 18C(3) words repealed by [2004 asp 7 sch. 2](#)