



Long Leases (Scotland) Act 1954

1954 CHAPTER 49

PART I

GRANT OF FEU RIGHT OF PROPERTY LET UNDER CERTAIN LONG LEASES

Payments to be made where feu right granted

- 7 Sums payable to landlord by occupying lessee in respect of feu right of subjects let under lease with one hundred years or less unexpired**
- (1) Where a feu right of any subjects is to be granted under this Part of this Act by the landlord under a lease the unexpired period of which at the date of the notice given under section one of this Act by the occupying lessee does not exceed one hundred years, there shall be payable to the landlord by the occupying lessee in respect of the feu right—
- (a) an amount calculated in accordance with the provisions of the next following subsection and payable—
 - (i) wholly by way of a lump sum ; or
 - (ii) wholly by way of an annual sum which shall be equal to one-twentieth of the said amount and shall form part of the feu-duty hereinafter mentioned; or
 - (iii) as to a part thereof, by way of a lump sum, and as to the remaining part thereof, by way of an annual sum which shall be equal to one-twentieth of such remaining part and shall form part of the feu-duty hereinafter mentioned;as may be determined by agreement between the parties and, in default of such agreement, one half of the said amount shall be payable by way of a lump sum and one half by way of an annual sum;
 - (b) a feu-duty equal to the aggregate of the following sums:—
 - (i) a sum equal to the rent payable under the lease or the proportion of such rent attributable to the subjects to be comprised in the feu right, as the case may be ; and

Status: This is the original version (as it was originally enacted).

- (ii) a sum in respect of the casualties (if any) payable under the lease equal to one-twentieth of the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act; and
 - (iii) any annual sum payable as provided in paragraph (a) of this subsection.
- (2) The amount referred to in paragraph (a) of the foregoing subsection shall be such amount as would, with compound interest at five per centum per annum with yearly rests for the period of the lease which is unexpired at the date of the notice referred to in the said subsection, produce at the end of the said period a sum equal to the value, as determined in accordance with the provisions of the next following subsection, of the subjects to be comprised in the feu right.

Where the unexpired period of any lease is less than thirty years at the commencement of this Act, then for the purposes of this subsection such lease shall be deemed to expire on a date thirty years after such commencement.

- (3) For the purposes of the last foregoing subsection, the value of the subjects shall be determined by agreement between the parties or, in default of such agreement, by a valuer agreed by the parties or, in case of dispute, appointed by the sheriff, and—
- (a) such value shall be estimated as if the lease had expired at the commencement of this Act and the subjects were being sold in the open market at such commencement with vacant possession and subject to a feu-duty equal to the rent payable under the lease or the proportion of such rent attributable to the subjects, as the case may be; and
 - (b) if the lease contains a stipulation for payment of compensation by the landlord on the termination thereof, then in estimating such value account shall be taken of such compensation as if the lease had expired at the commencement of this Act.
- (4) Any lump sum payable under subsection (1) of this section shall bear interest at the rate of five per centum per annum from the date of entry under the feu right until paid.

8 Feu-duty payable in respect of feu right of subjects let under lease with over one hundred years unexpired

Where a feu right of any subjects is to be granted under this Part of this Act by the landlord under a lease the unexpired period of which at the date of the notice given under section one of this Act by the occupying lessee exceeds one hundred years, there shall be payable in respect of the feu right a feu-duty equal to the aggregate of the following two sums:—

- (a) a sum equal to the rent payable under the lease or the proportion of such rent attributable to the subjects to be comprised in the feu right, as the case may be ; and
- (b) a sum in respect of the casualties (if any) payable under the lease equal to one-twentieth of the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act.

9 Payment to be made to intermediate landlord by occupying lessee on grant of feu right

- (1) Where a feu right of any subjects is to be granted under this Part of this Act on the requirement of an occupying lessee who is a sub-lessee, there shall be paid to each intermediate landlord by the occupying lessee—
 - (a) a sum equal to the capital value, at the date of the notice given under section one of this Act by the occupying lessee, of any amount by which the rent payable to the intermediate landlord or the proportion of such rent attributable to the subjects to be comprised, in the feu right, as the case may be, exceeds the rent payable by him or the proportion of such rent attributable to the said subjects, as the case may be, receivable annually for the unexpired period, at the date of the said notice, of the sub-lease under which the intermediate landlord holds the interest of landlord, such capital value being calculated in accordance with the table set out in the Third Schedule to this Act ; and
 - (b) any sum by which the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act in respect of the casualties (if any) payable to the intermediate landlord exceeds the appropriate amount determined in accordance with the provisions of the said Schedule in respect of the casualties (if any) payable by him.
- (2) Any sums payable under this section shall bear interest at the rate of five per centum per annum from the date of entry under the feu right until paid.

10 Payments to creditors

- (1) Any lump sum received under subsection (1) of section seven of this Act by a landlord shall be paid by him to the creditors in right of any heritable securities burdening his interest in the subjects comprised in the feu right according to the rights and preferences of such creditors, and shall be applied in extinction or reduction of the debts secured by the said securities :

Provided that the landlord and the creditor in right of any such security may agree that any amount which the landlord is liable to pay to the said creditor under this subsection shall not be so paid, or that a part only of such amount shall be so paid.

- (2) Any sums received under the last foregoing section by an intermediate landlord shall be paid by him to the creditors in right of any securities which immediately before the grant of the feu right burdened his interest as intermediate landlord according to the rights and preferences of such creditors, and shall be applied in extinction or reduction of the debts secured by the said securities:

Provided that the intermediate landlord and the creditor in right of any such security may agree that any amount which the intermediate landlord is liable to pay to the said creditor under this subsection shall not be so paid, or that a part only of such amount shall be so paid.