



Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

PART 3

FEUDUTIES

Extinction of feuduties

7 Extinction on appointed day

Without prejudice to section 13 of this Act, any feuduty which has not been extinguished before the appointed day is extinguished on that day; and accordingly no payment shall be exigible, in respect of feuduty, for that day or for any period after that day.

8 Requiring compensatory payment

- (1) Where a feuduty is extinguished by section 7 of this Act, the person who was the superior in relation to the feu (that person being in the following provisions of this Part of this Act referred to as the “former superior” may, within two years after the appointed day, duly serve on the person who was the vassal in relation to the feu (that person being in those provisions referred to as the “former vassal” notice requiring that a payment specified in the notice (being a payment calculated in accordance with section 9 of this Act) be made to him by the former vassal; and any such payment is referred to in this Act as a “compensatory payment”.
- (2) In its application to a feuduty which was, at extinction, a *cumulo* feuduty, subsection (1) above shall be construed as relating to separate notice being duly served on each former vassal from whom payment is sought; and in that application, notice under that subsection shall be in (or as nearly as may be in) the form, with its Appendix, contained in schedule 1 to this Act.
- (3) Except in the application mentioned in subsection (2) above, notice under subsection (1) above shall be in (or as nearly as may be in) the form contained in schedule 2 to this Act.

Status: Point in time view as at 28/11/2004.

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- (4) To any notice served under subsection (1) above shall be attached a copy of the explanatory note which immediately follows, as the case may be—
- (a) the Appendix to the form in schedule 1; or
 - (b) the form in schedule 2,
- to this Act.
- (5) Subject to section 10 of this Act, if subsections (1) to (4) above are complied with, then within 56 days after due service on him a former vassal shall make the compensatory payment.
- (6) The reference in subsection (1) above to a notice being duly served shall be construed in accordance with section 11 of this Act.

9 Calculation of amount of compensatory payment

- (1) In calculating the compensatory payment in respect of which notice may be served under section 8(1) of this Act, there shall first be determined the sum of money which would, if invested in two and a half per cent. Consolidated Stock at the middle market price at the close of business last preceding the appointed day, produce an annual sum equal to the feuduty.
- (2) Unless the feuduty was, at extinction, a *cumulo* feuduty the sum so determined shall be the compensatory payment.
- (3) If the feuduty was, at extinction, a *cumulo* feuduty the former superior shall, after determining that sum, allocate it among the former vassals in such proportions as are reasonable in all the circumstances; and an amount which is so allocated to a former vassal shall be the compensatory payment for that former vassal.
- (4) If the feuduty was, at extinction, a *cumulo* feuduty wholly or partly apportioned among the former vassals, then for the purposes of subsection (3) above the proportions of an allocation shall be presumed reasonable in so far as they accord with that apportionment.

10 Making compensatory payment by instalments

- (1) Where notice under subsection (1) of section 8 of this Act requires from a former vassal a compensatory payment of not less than £50, the former superior shall serve with it a filled out document (in this section referred to as an “instalment document”, in (or as nearly as may be in) the form contained in schedule 3 to this Act, for signature and dating by the former vassal (there being appended to the document so sent a copy of the explanatory note which immediately follows that form in the schedule); and if the former superior does not do so then no requirement to make the compensatory payment shall arise under subsection (5) of that section by virtue of that notice.
- (2) Subject to subsection (3) below, a former vassal on whom an instalment document is served shall obtain the option of making the compensatory payment by instalments if (and only if)—
- (a) he signs, dates and returns the document within the period which (but for this section) is allowed for making that payment by section 8(5) of this Act; and
 - (b) when so returning the document, he pays to the former superior an amount equivalent to one tenth of the compensatory payment (being an amount thus

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payable in addition to the compensatory payment and irrespective of how or when the compensatory payment is subsequently made).

- (3) If on or after the date on which an instalment document is served on a former vassal he ceases by virtue of a sale, or transfer for valuable consideration, to have right to the land in respect of which the feuduty was payable or any part of that land (that land or any part of it being in this section referred to as (“the land” then—
 - (a) where he has obtained the option mentioned in subsection (2) above, he shall lose that option; and
 - (b) where he has not obtained that option, he shall lose the right to obtain it.
- (4) Where the option of making the compensatory payment by instalments is obtained, those instalments shall be equal instalments payable where—
 - (a) the compensatory payment is £500 or less, on each of the five;
 - (b) it is more than £500 but not more than £1,000, on each of the ten;
 - (c) it is more than £1,000 but not more than £1,500, on each of the fifteen; and
 - (d) it is more than £1,500, on each of the twenty,term days of Whitsunday or Martinmas which then next follow; except that—
 - (i) in a case where any such instalment remains unpaid for forty-two days after falling due, the outstanding balance of the entire compensatory payment shall immediately fall due;
 - (ii) in a case where, by virtue of subsection (3)(a) above, the option is lost, that outstanding balance shall fall due on the seventh day after the day on which the former vassal ceases to have right to the land; and
 - (iii) in any other case, the former vassal may pay that outstanding balance at any time.
- (5) In a case where, by virtue of subsection (3)(b) above, the right to obtain the option of making the compensatory payment by instalments is lost, section 8(5) of this Act shall apply accordingly.

11 Service under section 8(1)

- (1) Due service under section 8(1) of this Act is effected by delivering the documents in question to the former vassal or by sending them by registered post, or the recorded delivery service, addressed to him at an appropriate place.
- (2) An acknowledgement, signed by the former vassal, which conforms to Form A of schedule 4 to this Act, or as the case may be a certificate which conforms to Form B of that schedule and is accompanied by the postal receipt, shall be sufficient evidence of such due service; and if the packet containing the documents in question is, under subsection (1) above, sent by post but is returned to the former superior with an intimation that it could not be delivered, the packet may be delivered or sent by post, with that intimation, to the Extractor of the Court of Session, the delivering or sending to the Extractor being taken to be equivalent to the service of those documents on the former vassal.
- (3) For the purposes of subsection (2) above, an acknowledgement of receipt by the Extractor on a copy of those documents shall be sufficient evidence of their receipt by him.

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- (4) The date on which notice under section 8(1) of this Act is served on a former vassal is the date of delivery, or as the case may be of posting, in compliance with subsection (1) or (2) above.
- (5) A reference in this section to an “appropriate place” is, for any former vassal, to be construed as a reference to—
- (a) his place of residence;
 - (b) his place of business; or
 - (c) a postal address which he ordinarily uses,
- or, if none of those is known at the time of delivery or posting, as a reference to whatever place is at that time his most recently known place of residence or place of business or postal address which he ordinarily used.

12 Extinction by prescription of requirement to make compensatory payment

In Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 (c.52) (which specifies obligations affected by prescriptive periods of five years under section 6 of that Act)—

- (a) in paragraph 1, after sub-paragraph (a) there shall be inserted—
 - “(aa) to any obligation to make a compensatory payment (“compensatory payment” being construed in accordance with section 8(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), including that section as read with section 56 of that Act);”;
- and
- (b) in paragraph 2(e), after the words “paragraph 1(a)” there shall be inserted “ or (aa) ”.

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