

*Status: Point in time view as at 01/11/2003.*

*Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, SCHEDULE 6 is up to date with all changes known to be in force on or before 19 January 2024. 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)*

## SCHEDULE 6

*(introduced by section 19(1)(a))*

### FORM OF NOTICE SEEKING AGREEMENT TO THE PROSPECTIVE NOMINATION OF A DOMINANT TENEMENT

#### “NOTICE SEEKING AGREEMENT TO PROSPECTIVE NOMINATION OF DOMINANT TENEMENT

**Superior:**

*(see note for completion 1)*

**Person who has the feudal estate of dominium utile:**

*(see note for completion 2)*

**Description of land which, if agreement is reached and the agreement is registered, shall be the prospective servient tenement:**

**Description of land which, if agreement is reached and the agreement is registered, shall be the prospective dominant tenement:**

**Terms of real burden:**

*(see note for completion 3)*

**Any counter-obligation:**

*(see note for completion 3)*

**Title to the superiority:**

*(see note for completion 4)*

**Title to land which would be the prospective dominant tenement:**

*(see note for completion 4)*

**Service:**

*(see note for completion 5)*

**Signature of superior:**

**Date:** .”.”

*Explanatory Note*

*(This explanation has no legal effect)*

This notice is sent by your feudal superior. In this notice your property (or some part of it) is referred to (prospectively) as the “servient tenement” and property belonging to the superior is referred to (again prospectively) as the “dominant tenement”.

By this notice the feudal superior asserts that at present the use of your property is subject to certain burdens and conditions enforceable by him. He wishes to be able to continue to enforce the burdens and conditions, not as superior but in his capacity of owner of the prospective

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dominant tenement. If you agree and if the agreement is registered in the Land Register or Register of Sasines under section 19 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000, he and his successors, as such owners, will be able to enforce the burdens and conditions after the feudal system is abolished (which will be shortly).

In the absence of agreement the superior may yet be able to enforce the burdens and conditions provided that he can meet certain statutory conditions or if he applies to the Lands Tribunal for Scotland and the Tribunal grants an appropriate order on being satisfied by him that there would be substantial loss or disadvantage to him as owner of the prospective dominant tenement were the real burden to be extinguished or to cease to be enforceable by him.

If the superior does apply to the Tribunal you may oppose the application and in doing so may be eligible for Legal Aid. You would not ordinarily have to meet the superior's expenses. You are advised to consult your solicitor or other adviser if you wish to consider opposing the application or if you are uncertain about what is said in this notice.

*Notes for completion of the notice*

*(These notes have no legal effect)*

- 1           Insert name and address of superior.
- 2           Insert name and address of person who has the feudal estate of *dominium utile*.
- 3           Specify by reference to the appropriate Register the deed or deeds in which the real burden or counter-obligation was imposed. Set out the real burden or counter-obligation in full or refer to the deed in such a way as to identify the real burden or counter— obligation. You may if you wish propose and set out a modification to either the real burden or to the counter-obligation (or modifications to both).
- 4           Where the title has been registered in the Land Register of Scotland and the superior is—
  - (a) registered as proprietor, specify the title number;
  - (b) not registered as proprietor, specify the title number and set out the midcouples or links between the person last registered and the superior so as sufficiently to identify them.

Where the title has not been registered in the Land Register and the superior—

  - (a) has a recorded title, specify by reference to the Register of Sasines the deed constituting the immediate title;
  - (b) does not have a recorded title, either—
    - (i) specify by reference to the Register of Sasines the deed constituting the immediate title of the person with the last recorded title and set out the midcouples or links between that person and the superior so as sufficiently to identify them; or
    - (ii) if there is no such deed, specify the nature of the superior's title.
- 5           Do not complete until a copy of the notice has been delivered or sent to the person with right to the feu. Then insert the following:  

“The superior has served this notice by [*specify whether by delivery, by recorded delivery, by registered post or by ordinary post*] on [*date of posting*] to the person with right to the feu at [*state address*].”.

The notice should not be signed until a copy of it has been so delivered or sent.

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