

Status: Point in time view as at 01/11/2003.

Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, SCHEDULE 9 is up to date with all changes known to be in force on or before 28 September 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)

SCHEDULE 9

(introduced by section 33(1))

FORM OF NOTICE RESERVING RIGHT TO COMPENSATION IN RESPECT OF EXTINCTION OF DEVELOPMENT VALUE BURDEN

“NOTICE RESERVING RIGHT TO COMPENSATION IN RESPECT OF EXTINCTION OF DEVELOPMENT VALUE BURDEN

Superior:

(see note for completion 1)

Description of land (or part) subject to the real burden:

(see note for completion 2)

Terms of real burden:

(see note for completion 3)

Statement that burden reserves development value:

(see note for completion 4)

Title to the superiority:

(see note for completion 5)

Details of feu grant:

(see note for completion 6)

Amount by which consideration reduced:

(see note for completion 7)

Service:

(see note for completion 8)

By this notice I [A.B.] (*superior*) reserve the right to claim compensation in respect of the extinction of the development value burden(s) set out in this form.

I swear [*or affirm*] that the information contained in the notice is, to the best of my knowledge and belief, true.

Signature of superior:

(see note for completion 9)

Signature of notary public:

Date:??

Explanatory Note

(This explanation has no legal effect)

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This notice is sent by your feudal superior.

The feudal system is shortly to be abolished. By this notice the feudal superior is claiming that your property is subject to a development value burden. He is reserving the right to claim compensation for the loss of the burden. Compensation so claimed is payable if either during the five year period ending on *[insert date of appointed day]* or during the twenty year period starting on that date something happens which, had the feudal system not been abolished, would have been a breach of the burden.

A development value burden is a special type of real burden designed to reserve for the superior the benefit of any increase in the value of the land arising from the land being freed to be used or dealt with in a way prohibited by the burden. Burdens of this type were typically inserted in feudal grants where the superior gave away land, or sold it very cheaply, on condition that it was used only for some charitable or community purposes (for example, for use only as a community hall or sports field).

For the superior to be entitled to reserve the right to claim compensation, the burden must have led to the price paid for your property when it was first sold by the superior being significantly lower than it would otherwise have been.

This notice will be registered in the Land Register of Scotland, or recorded in the Register of Sasines, under section 33 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000.

If you think that there is a mistake in this notice or if you wish to challenge it, you are advised to consult your solicitor or other adviser.

Notes for completion of notice

(These notes have no legal effect)

- 1 Insert name and address of superior.
- 2 Describe the land in a way that is sufficient to enable the Keeper to identify it by reference to the Ordnance Map. Where the title to the land has been registered in the Land Register the description should refer to the title number of the land or of the larger subjects of which the land forms part. Otherwise it should normally refer to and identify a deed recorded in a specified division of the Register of Sasines.
- 3 Specify by reference to the appropriate Register the deed or deeds in which the development value burden was imposed. Set out the burden in full or refer to the deed in such a way as to identify the burden. If the notice is used to reserve rights in relation to more than one development value burden, details of each burden should be set out separately, in numbered paragraphs.
- 4 State that the burden reserves the development value. Section 33(5) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 defines “development value” as “any significant increase in the value of the land arising as a result of the land becoming free to be used, or dealt with, in some way not permitted under the grant in feu”. Set out any information (additional to that provided in the other boxes) which supports that statement.
- 5 Where the title has been registered in the Land Register of Scotland and the superior is—
 - (a) infert, specify the title number;
 - (b) uninfert, specify the title number and set out the midcouples or links between the person last infert and the superior so as sufficiently to identify them.

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- 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 last infeft and set out the midcouples or links between the person last infeft 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.
- 6 Specify by reference to the appropriate Register the writ granting the relevant land in feu.
- 7 State the amount by which the consideration was reduced because of the imposition of the burden. (If the notice relates to more than one burden, the amounts should be shown separately for each burden.) The statement should be made to the best of the superior’s knowledge and belief.
- 8 Do not complete until a copy of the notice has been sent to the owner of the land subject to the burden (except in a case where this is not reasonably practicable). Then insert whichever is applicable of the following:
- “The superior has sent a copy of this notice by [*specify whether by recorded delivery or registered post or by ordinary post*] on [*date of posting*] to the owner of the land subject to the burden at [*state address*].”; or
- “It has not been reasonably practicable to send a copy of this notice to the owner of the land subject to the burden for the following reason: [*specify the reason*].”.
- 9 The superior should not swear or affirm, or sign, until a copy of the notice has been sent (or otherwise) as mentioned in note 8. Before signing the superior should swear or affirm before a notary public (or, if the notice is being completed outwith Scotland, before a person duly authorised under the local law to administer oaths or receive affirmations) that, to the best of the superior’s knowledge and belief, all the information contained in the notice is true. The notary public should also sign. Swearing or affirming a statement which is known to be false or which is believed not to be true is a criminal offence under the False Oaths (Scotland) Act 1933. Normally the superior should swear or affirm, and sign, personally. If, however, the superior is legally disabled or incapable (for example, because of mental disorder) his legal representative should swear or affirm and sign. If the superior is not an individual (for example, if it is a company) a person entitled by law to sign formal documents on its behalf should swear or affirm and sign.

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