

Status: Point in time view as at 01/11/2003.

Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, Cross Heading: Notes for completion of notice 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 FORM OF NOTICE RESERVING RIGHT TO COMPENSATION IN RESPECT OF EXTINCTION OF DEVELOPMENT VALUE BURDEN

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) infeft, specify the title number;
 - (b) uninfeft, specify the title number and set out the midcouples or links between the person last infeft 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 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.

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- 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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