



# Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

## PART 4

### REAL BURDENS

#### *Compensation*

#### **33 Notice reserving right to claim compensation where land subject to development value burden**

(1) Where—

- (a) before the appointed day, land was feued subject to a real burden enforceable by a superior (or so enforceable if the person in question were to complete title to the *dominium directum*) which reserved for the superior the benefit (whether wholly or in part) of any development value of the land (such a real burden being referred to in this Part of this Act as a (“development value burden”); and

(b) either—

- (i) the consideration paid, or payable, under the grant in feu was significantly lower than it would have been had the feu not been subject to the real burden; or

- (ii) no consideration was paid, or payable, under the grant in feu,

the superior may, before that day, reserve the right to claim (in accordance with section 35 of this Act) compensation by executing and registering against the *dominium utile* of the land subject to the burden a notice in, or as nearly as may be in, the form contained in schedule 9 to this Act.

(2) A notice under this section shall—

- (a) set out the title of the superior;
- (b) describe, sufficiently to enable identification by reference to the Ordnance Map, the land the *dominium utile* of which is subject to the development value burden;
- (c) set out the terms of the burden;

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*Status: This is the original version (as it was originally enacted).*

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- (d) state that the burden reserves development value and set out any information relevant to that statement;
  - (e) set out, to the best of the superior’s knowledge and belief, the amount by which the consideration was reduced because of the imposition of the burden; and
  - (f) the superior reserves the right to claim compensation in accordance with section 35 of this Act.
- (3) Before submitting any notice for registration under this section, the superior shall swear or affirm before a notary public that to the best of the knowledge and belief of the superior all the information contained in the notice is true.
- (4) For the purposes of subsection (3) above, if the superior is—
- (a) an individual unable by reason of legal disability, or incapacity, to swear or affirm as mentioned in that subsection, then a legal representative of the superior may swear or affirm;
  - (b) not an individual, then any person authorised to sign documents on its behalf may swear or affirm;
- and any reference in that subsection to a superior shall be construed accordingly.
- (5) In this Part of this Act, “development value” (except in the expression “development value burden”) means 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.
- (6) This section is subject to sections 41 and 42 of this Act.