Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

PART 4

REAL BURDENS

Compensation

37 Amount of compensation

(1) The amount of any compensation payable on a claim made under section 35(3) of this Act shall, subject to subsections (2) and (3) below, be such sum as represents, at the time of the breach or occurrence in question, any development value which would have accrued to the owner had the burden been modified to the extent necessary to permit the land to be used, or dealt with, in the way that constituted the breach or, as the case may be, occurrence on which the claim is based.

(2) The amount payable as compensation (or, where more than one claim is made in relation to the same development value burden, the total compensation payable) under subsection (1) above shall not exceed such sum as will make up for any effect which the burden produced, at the time when it was imposed, in reducing the consideration then paid or made payable for the feu.

(3) In assessing for the purposes of subsection (1) above an amount of compensation payable—

(a) any entitlement of the claimant to recover any part of the development value of the land subject to the development value burden shall be taken into account; and

(b) a claimant to whom the reserved right was assigned or otherwise transferred shall be entitled to no greater sum than the former superior would have been had there been no such assignation or transfer.

(4) The reference in subsection (1) above to a burden shall, in relation to an occurrence, be construed as a reference to the burden which would have been breached but for its becoming, by section 17(1) of this Act, extinct or unenforceable.

Changes to legislation:
Abolition of Feudal Tenure etc. (Scotland) Act 2000, Section 37 is up to date with all changes known to be in force on or before 28 July 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.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18C(1) words repealed by 2004 asp 7 sch. 2
- s. 18C(3) words repealed by 2004 asp 7 sch. 2