

*These notes relate to the Abolition of Feudal Tenure etc. (Scotland)
Act 2000 (asp 5) which received Royal Assent on 14 July 2000*

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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Commentary on Sections

Part 4: Real Burdens

Section 33: Notice reserving right to claim compensation where land subject to development value burden

130. This section is the first in a group of sections on compensation for the loss of certain real burdens reserving development value to the superior. Property may have been feued for a heavily discounted consideration, or even for no consideration, for charitable, religious, public or amenity purposes on the understanding that a further financial return is to be available to the superior later if the land is freed to be sold on the open market or used for purposes prohibited by the burden. For example, land feued for use as a sports field might be suitable for a commercial development. The superior may have been happy to grant a feu for a token sum so long as the ground was used as a sports field but may have been unwilling to allow the vassal to make a large profit by selling the land for development. Where a superior has not completed title, the saving provisions will operate in circumstances where the superior would be able to enforce the burden if he were to complete title.
131. *Subsection (1)* enables the superior, before the date of abolition, to reserve the right to claim compensation by executing and registering a notice in prescribed form. This subsection deals with circumstances where a superior has gifted land or sold land at a price significantly lower than that for which the superior could have sold it had the burden not been imposed.
132. *Subsection (2)* explains what information should be set out in the notice.
133. *Subsections (3) and (4)* provide that the notice must be sworn or affirmed before a notary public. *Subsection (4)* sets out exceptions to the normal rule that this must be done by the superior personally. *Subsection (4)(b)* should be read in conjunction with Schedule 2 to the Requirements of Writing (Scotland) Act 1995 which identifies who may sign on behalf of companies and other legal persons.