

*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 38: Duty to disclose identity of owner

147. This section deals with the situation where there has been a sale or transfer of the property before the event giving rise to a claim for compensation in relation to a development value burden. If the former superior wishes to claim a compensatory payment he will have to do so from the owner of the property at the time of the breach or occurrence giving rise to the claim. The former superior may try to trace that person by searching in the property registers. If, however, the property had changed hands, the property registers may not disclose the new owner, if either the new owner had not yet presented their title, or the Register of Sasines has not been updated to show the new owner's title. It would still show the original owner as the owner of the house, but having sold or transferred the property, the original owner is not the person who is to pay the compensation. If liability rested with the person shown as owner in the property registers, the new owner could avoid liability by delaying in registering his title. This section provides a mechanism to assist the superior relying on the information in the property registers to identify the person who was the owner at the relevant time. An obligation is placed on the person who owned the property before the owner who is obliged to pay the compensation to help the superior to find that owner by telling him the name and address if he knows it or any other relevant information.