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Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

PART 6

MISCELLANEOUS

Discharge of certain rights and extinction of certain obligations and payments

53 Discharge of rights of irritancy

- (1) All rights of irritancy held by a superior are, on the day on which this section comes into force, discharged; and on that day any proceedings already commenced to enforce any such right shall be deemed abandoned and may, without further process and without any requirement that full judicial expenses shall have been paid by the pursuer, be dismissed accordingly.
- (2) Subsection (1) above shall not affect any cause in which final decree (that is to say, any decree or interlocutor which disposes of the cause and is not subject to appeal or review) is granted before the coming into force of this section.

54 Extinction of superior's rights and obligations qua superior

- (1) Subject to section 13, to Part 4, and to section 60(1), of this Act, a right or obligation which, immediately before the appointed day, is enforceable by, or as the case may be against, a superior qua superior shall, on that day, be extinguished.
- (2) Subject to subsection (3) below—
 - (a) on or after the appointed day, no proceedings for such enforcement shall be commenced;
 - (b) any proceedings already commenced for such enforcement shall be deemed to have been abandoned on that day and may, without further process and without any requirement that full judicial expenses shall have been paid by the pursuer, be dismissed accordingly; and

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- (c) any decree, or interlocutor, already pronounced in proceedings for such enforcement shall be deemed to have been reduced, or as the case may be recalled, on that day.
- (3) Subsection (2) above shall not affect any proceedings, decree or interlocutor in relation to—
- (a) a right of irritancy held by a superior; or
 - (b) a right to recover damages or to the payment of money.

VALID FROM 28/11/2004

55 Abolition of thirlage

Any obligation of thirlage which has not been extinguished before the appointed day is extinguished on that day.

56 Extinction etc. of certain payments analogous to feuduty

- (1) The provisions of Part 3 of this Act shall apply as regards ground annual, skat, teind, stipend, standard charge, dry multures (including compensation payable in respect of commutation pursuant to the Thirlage Act 1799 (c.55)) and, subject to the exceptions mentioned in subsection (2) below, as regards any other perpetual periodical payment in respect of the tenure, occupancy or use of land or under a land obligation, as those provisions apply as regards feuduty; but for the purposes of that application—
- (a) references in the provisions to “vassal” and “superior” shall be construed as references to, respectively, the payer and the recipient of the ground annual, skat, teind, stipend, standard charge, dry multures or other payment in question (“former vassal” and “former superior” being construed accordingly); and
 - (b) a form (and its explanatory note) contained in a schedule to this Act shall be modified so as to accord with the kind of payment to which it relates.
- (2) The exceptions are any payments—
- (a) in defrayal of, or as a contribution towards, some continuing cost related to land; or
 - (b) made under a heritable security.
- (3) The definition of “land obligation” in subsection (2) of section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35) shall apply for the purposes of this section as it applies for the purposes of that section.
- (4) Nothing in subsections (1) to (3) above shall be taken to prejudice the tenure, occupancy or use of land.

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VALID FROM 28/11/2004

57 Extinction by prescription of obligation to pay redemption money for feuduty, ground annual etc.

Notwithstanding the terms of Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 (c.52) (which defines obligations affected by prescriptive periods of five years), any obligation under section 5 (redemption of feuduty, ground annual etc. on transfer for valuable consideration) or 6 (redemption of feuduty, ground annual etc. on compulsory acquisition) of the Land Tenure Reform (Scotland) Act 1974 (c.38) to pay redemption money is an obligation to which section 6 of that Act of 1973 (extinction of obligation by prescriptive period of five years) applies; and for the purposes of that application, the reference in subsection (1) of section 6 of that Act of 1973 to the

“appropriate date” is a reference to the date of redemption within the meaning of—

- (a) except in the case mentioned in paragraph (b) below, section 5 (read, as the case may be, with section 6(2)(a)); or
- (b) in the case of an obligation arising out of the acquisition of land by means of a general vesting declaration, section 6(4),

of that Act of 1974.

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