



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

2000 asp 5

## PART 4

### REAL BURDENS

#### *Compensation*

#### 35 Claiming compensation

- (1) Where the conditions mentioned in subsection (2) below are satisfied, any person who has, by or by virtue of a notice executed and registered in accordance with section 33 of this Act, a reserved right to claim compensation shall be entitled, subject to any order under section 44(2) of this Act, to compensation from the person who is the owner.
- (2) The conditions are that—
  - (a) the real burden set out in the notice was, immediately before the appointed day, enforceable by the superior or would have been so enforceable immediately before that day had the person in question completed title to the *dominium directum*;
  - (b) on that day the burden, or as the case may be any right (or right on completion of title) of the superior to enforce the burden, was extinguished, or rendered unenforceable, by section 17(1) of this Act; and
  - (c) at any time—
    - (i) during the period of five years ending immediately before the appointed day, there was a breach of the burden; or
    - (ii) during the period of twenty years beginning with the appointed day, there was an occurrence, which, but for the burden becoming extinct, or unenforceable, as mentioned in paragraph (b) above, would have been a breach of the burden.
- (3) Where a person is entitled, by virtue of subsection (1) above, to compensation, he shall make any claim for such compensation by notice in writing duly served on the owner; and any such notice shall specify, in accordance with section 37 of this Act, the amount of compensation claimed.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Where, in relation to a claim made under subsection (3) above, the condition mentioned in—
- (a) sub-paragraph (i) of subsection (2)(c) above applies, any such claim may not be made more than three years after the appointed day;
  - (b) sub-paragraph (ii) of subsection (2)(c) above applies, any such claim may not be made more than three years after the date of the occurrence.
- (5) For the purposes of this section, if a breach, or occurrence, such as is mentioned in subsection (2)(c) above is continuing, the breach or, as the case may be, occurrence shall be taken to occur when it first happens.
- (6) The reference in subsection (3) above to a notice being duly served shall be construed in accordance with section 36 of this Act.