



Abolition of Feudal Tenure etc. (Scotland) Act 2000

2000 asp 5

PART 4

REAL BURDENS

Miscellaneous

42 Further provision as respects sections 18 to 20, 27 and 33

(1) Where—

- (a) a notice relating to a real burden has been registered under section 18, [F¹18A, 18B, 18C,] 20, 27 [F², 27A] or 33 of this Act; or
- (b) an agreement relating to a real burden has been registered under section 19 of this Act,

against the *dominium utile* of any land which is subject to the burden, it shall not be competent to register under any of those sections against that *dominium utile* another such notice or agreement relating to the same real burden; but nothing in this subsection shall prevent registration where—

- (i) the discharge of any earlier such notice has been registered by the person who registered that notice (or by his successor); or
- (ii) as the case may be, the discharge of any earlier such agreement has been registered, jointly, by the parties to that agreement (or by their successors).

- (2) Where the *dominium utile* of any land comprises parts each held by a separate vassal, each part shall be taken to be a separate feudal estate of *dominium utile*.
- (3) Where more than one feudal estate of *dominium utile* is subject to the same real burden enforceable by a superior of the feu, he shall, if he wishes to execute and register a notice under section 18, [F¹18A, 18B, 18C,] 20, 27 [F², 27A] or 33 of this Act against those feudal estates in respect of that real burden, require to do so against each separately.
- (4) Where a feudal estate of *dominium utile* is subject to more than one real burden enforceable by a superior of the feu, he may if he wishes to—

Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, Section 42 is up to date with all changes known to be in force on or before 22 May 2023. 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. (See end of Document for details) [View outstanding changes](#)

- (a) execute and register a notice under section 18, [^{F1}18A, 18B, 18C,] 20, 27 [^{F2}, 27A] or 33 of this Act against that feudal estate in respect of those real burdens, do so by a single notice; or
- (b) enter into and register an agreement under section 19 of this Act against that feudal estate in respect of those real burdens, do so by a single agreement.

[^{F3}(5) Nothing in this Part requires registration against land prospectively nominated as a dominant tenement but outwith Scotland.]

Textual Amendments

- F1** Words in s. 42(1)(a)(3)(4)(a) inserted (4.4.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 114(6), 129(3), **Sch. 13 para. 7(a)(i)** (with ss. 119, 121)
- F2** Words in s. 42(1)(a)(3)(4)(a) inserted (4.4.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 114(6), 129(3), **Sch. 13 para. 7(a)(ii)** (with ss. 119, 121)
- F3** S. 42(5) added (4.4.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 114(6), 128(3), **Sch. 13 para. 7(b)** (with ss. 119, 121)

Changes to legislation:

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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](#)