

ABOLITION OF FEUDAL TENURE ETC. (SCOTLAND) ACT 2000

EXPLANATORY NOTES

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Commentary on Sections

Part 3: Feuduties

Section 10: Making compensatory payment by instalments

48. This section provides a scheme for payment by instalments where the sum due is £50 or more.
49. Where a superior is entitled to a compensatory payment of not less than £50, *subsection (1)* requires the superior to serve a completed instalment document and explanatory note in the prescribed form contained in schedule 3 on the former vassal at the same time as the notice calling for payment of the sum due. If the superior does not do so, then the notice has no effect.
50. If the former vassal wishes to take advantage of the option of making the compensatory payment by instalments, *subsection (2)* requires the vassal to sign, date and return the instalment document along with payment of a 10% surcharge within 8 weeks of the date of service of the notice. The surcharge of 10% of the total compensation recognises the administrative and other costs for the former superior where the compensation is to be paid by instalments.
51. *Subsection (3)* has the effect that if a former vassal sells the property after having received a notice to pay compensation to his former superior for the extinction of feuduty, he should no longer have the opportunity to pay by instalments and would be obliged to pay off the remaining compensation in a lump sum if the instalment option has been taken up. The effect is to provide a "clean break" when the property is sold.
52. *Subsection (4)* sets out the details of the instalment scheme. It provides for immediate payment of the balance due if an instalment is unpaid for 42 days and makes it clear that in other cases the balance can be repaid at any time. If the vassal, having previously taken up the instalment option subsequently loses the option of paying compensation by instalments by virtue of having sold the property, then the outstanding balance will be due on the seventh day after the day on which the former vassal ceased to have right to the land. In cases where the vassal loses the right to obtain the option of paying compensation by instalments because the property is sold after service of the notice but before the instalment option has been taken up, *subsection (5)* makes clear that the compensation will wholly be paid within 56 days after due service under section 8(5).