



Conveyancing and Feudal Reform (Scotland) Act 1970

1970 CHAPTER 35

PART I

FEUDAL REFORM

Allocation of feuduties, etc.

3 Allocation of feuduties

- (1) The provisions of this section and of sections 4 and 5 of this Act shall, without prejudice to any other method of allocation, apply for the purpose of allocating any *cumulo* feuduty, whether constituted before or after the commencement of this Act.
- (2) For the purposes of this section and of sections 4 and 5 of this Act,
 - " *cumulo* feuduty " means the whole of a feuduty which at any given time is exigible in respect of land consisting of two or more parts held by separate proprietors, being a feuduty which at that time has not been allocated upon those parts by the superior or under this Act;
 - " feu " means the whole land burdened with a *cumulo* feuduty; and
 - " land " has the meaning assigned to it in section 3 of the Conveyancing (Scotland) Act 1874.
- (3) Any proprietor of part of a feu may serve upon his superior or upon any other person to whom the *cumulo* feuduty is paid on his behalf a notice of allocation of the portion of the *cumulo* feuduty which has been apportioned by disposition or other document or by any other method (formal or informal) on the part of the feu of which he is proprietor.
- (4) A notice of allocation shall be in, or as nearly as may be in, such form as may be prescribed by regulations made by the Secretary of State by statutory instrument, and shall contain—

- (a) the name and address of the proprietor serving the notice and a sufficient identification of the part of the feu of which he is proprietor and on which he wishes the portion of the *cumulo* feuduty to be allocated, and the name and address of the person to whom that portion is paid;
- (b) a statement of the amount of that portion ;
- (c) a statement to the effect that that portion of the feuduty is to be allocated under the Conveyancing and Feudal Reform (Scotland) Act 1970 on the part of the feu of which the person serving the notice is the proprietor;

and shall be signed by the proprietor or his agent.

- (5) Subject to the provisions of sections 4 and 5 of this Act, a notice of allocation shall be effective to allocate on the part of the feu of which the person serving the notice is the proprietor the portion of the *cumulo* feuduty stated in the notice.

4 Applications to Lands Tribunal regarding allocation of feuduties

- (1) If a superior upon whom a notice of allocation has been served under section 3 of this Act wishes to object to the amount of the portion of feuduty of which allocation is sought by the proprietor serving the notice, he may, within such time as may be prescribed, apply to the Lands Tribunal, and on such application, the Tribunal (except in so far as they consider it impracticable to do so) shall by order allocate the *cumulo* feuduty, in such manner as they consider reasonable, on the part of the feu of which the person serving the notice is the proprietor, and on every other part of the feu which is held by a separate proprietor.
- (2) On any application to the Lands Tribunal under this section, the Tribunal shall give such notice thereof, whether by way of advertisement or otherwise, as may be prescribed, to the persons who appear to them to be proprietors of parts of the feu in respect of which the *cumulo* feuduty is exigible, and to such other persons as the Tribunal may think fit; and the Tribunal shall allow the superior of the feu and any such proprietor, and may allow any other person who appears to them to have an interest in the application, to be heard in relation thereto.

5 Provisions supplementary to sections 3 and 4

- (1) Where, under the provisions of this Act, a portion of a *cumulo* feuduty has been allocated on a part of a feu, that part of the feu shall, in relation to the rights and obligations of the proprietors of the remainder of the feu relating to payment of the remainder of the feuduty, be treated as if it had never been part of the feu and as if the portion of the feuduty allocated on it had never formed part of the *cumulo* feuduty.
- (2) Nothing in section 4 of this Act shall empower the Lands Tribunal to make an order which would result in any alteration of the total amount of feuduty exigible in respect of the feu which, before the making of the order, was burdened with the *cumulo* feuduty allocated by the order.
- (3) An order of the Lands Tribunal under section 4 of this Act allocating the whole of the *cumulo* feuduty to which the order relates shall supersede for all purposes any existing apportionment of that feuduty.
- (4) Where an application is made to the Lands Tribunal under section 4 of this Act in respect of a notice relating to a *cumulo* feuduty, any notice of allocation relating to that feuduty shall be of no effect.

- (5) Subject to the provisions of this section, an allocation of feuduty effected under section 3 or 4 of this Act shall take effect as respects the amount of the feuduty so allocated which becomes exigible at any term occurring not less than 3 months after the service of the notice of allocation or (in the case of an allocation effected by order of the Lands Tribunal) after the date of the order, as if it were effected by a duly recorded memorandum of allocation under the law in force before the commencement of this Act.
- (6) In any proceedings, the production of a document purporting to be a copy of a notice of allocation together with a registered post or recorded delivery service receipt addressed to the superior shall be sufficient evidence of the fact and date of service of the notice; and any such copy shall be taken to be a true copy unless the contrary is shown.
- (7) For the purposes of this section and of sections 3 and 4 of this Act,
- " notice of allocation " means a notice under section 3 of this Act;
 - " proprietor ", in relation to a part of a feu, includes a person having right to that part but whose title thereto is not complete, and includes a person who is obliged to relieve the proprietor of liability for payment of the whole or part of the *cumulo* feuduty burdening that feu;
 - " superior", in relation to a feu, means the immediate superior, and includes a person having right to a superiority but whose title thereto is not complete.

6 Allocation of ground annuals

The provisions of sections 3 to 5 of this Act shall apply in relation to a ground annual as they apply in relation to a feuduty, and for the purposes of such application—

- " *cumulo* feuduty " and " feu " shall be construed accordingly ; and
- " superior " means the creditor in the ground annual.