



Heritable Jurisdictions (Scotland) Act 1746

1746 CHAPTER 43 20 Geo 2

An Act for taking away and abolishing the Heretable Jurisdictions in Scotland; and for making Satisfaction to the Proprietors thereof; and for restoring such Jurisdictions to the Crown; and for making more effectual Provision for the Administration of Justice throughout that Part of the United Kingdom, by the King's Courts and Judges there; . . .
F1

and for rendering the Union of the Two Kingdoms more complete.

For remedying the inconveniences that have arisen and may arise from the multiplicity and extent of heretable jurisdictions in Scotland, for making satisfaction to the proprietors thereof, for restoring to the crown the powers of jurisdiction originally and properly belonging thereto, according to the constitution, and for extending the influence, benefit, and protection of the King's laws and courts of justice to all his Majesty's subjects in Scotland, and for rendering the union more complete.

Textual Amendments

F1 Words repealed by [Statute Law Revision Act 1887 \(c. 59\)](#)

Modifications etc. (not altering text)

C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)

Commencement Information

I1 Act wholly in force at Royal Assent

[1.] All heretable jurisdictions, &c. in Scotland, the office of high constable excepted, to cease from 25 March 1748.

All heretable jurisdictions of justiciary, and all regalities and heretable bailleries, and all heretable constabularies, other than the office of high constable of Scotland, . . .
F2

Status: Point in time view as at 01/02/1991.

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shall be and they are hereby . . . ^{F2} abrogated, taken away, and totally dissolved and extinguished.

Textual Amendments
F2 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

2 The lands, rents and certain duties annexed to the heretable bailleries, &c. to remain.

Provided always, that all lands annexed or belonging to the said heretable bailleries, stewardries, and constabularies hereby intended to be dissolved and extinguished, and the rents and duties consisting in money, victual, cattle, or other goods payable to the possessors of the said heretable bailleries, stewardries, or constabularies, shall remain with and belong to them, their heirs and successors and continue to be enjoyed by and paid to them, their heirs and successors, notwithstanding the extinction of the said offices.

3—5.^{F3}

Textual Amendments
F3 Ss. 3–5 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

6—13.^{F4}

Textual Amendments
F4 Ss. 6–13 repealed by [Statute Law Revision Act 1867 \(c. 59\)](#)

14 Proceedings of the courts, had before 25th March, confirmed. Proceedings, &c. after 24th June 1748, to be transmitted to the sheriffs courts. Registers of hornings, &c. to be transmitted to the register house at Edinburgh.

And that all suits, decrees, sentences, interloquitors, judgements, executions, and proceedings of or in any court hereby abrogated, taken away, and dissolved, which were depending, pronounced, awarded, or had before the said twenty-fifth day of March, shall be and remain of the same force, effect, and validity, and in the same state and condition, as the same would respectively have been in case this Act had not been made; and that all records, rolls, books, and entries of any such suits, decrees, sentences, interloquitors, judgements, executions, or proceedings relating to any civil or criminal cause in any such court shall, on or before the twenty-fourth day of June in the year of our Lord one thousand seven hundred and forty-eight, be transmitted by the possessor of any such justiciary, stewardry, sheriffship, deputy sheriffship, regality, constabulary, or baillerie to the courts of the respective sheriffs or stewarts of counties, and there lodged and kept amongst the records of such courts, which shall proceed thereupon as if the said civil or criminal causes had been commenced originally in such courts; and that the register books of hornings, inhibitions, and interdictions heretofore

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kept in any bailleries of royalty or regality or stewardries hereby abrogated shall, on or before the said twenty-fourth day of June, be transmitted to his Majesty's general register house at Edinburgh.

15 F5

Textual Amendments

F5 S. 15 repealed by Statute Law Revision Act 1948 (c. 62), Sch. 1

16 F6

Textual Amendments

F6 S. 16 repealed by Statute Law Revision Act 1892 (c. 19)

17 F7

Textual Amendments

F7 S. 17 repealed by Statute Law Revision Act 1948 (c. 62), Sch. 1

18 F8

Textual Amendments

F8 S. 18 repealed by Statute Law Revision Act 1892 (c. 19)

19 F9

Textual Amendments

F9 S. 19 repealed by Statute Law Revision Act 1948 (c. 62), Sch. 1

20 F10

Textual Amendments

F10 S. 20 repealed by Statute Law Revision Act 1892 (c. 19)

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21 **F11**

Textual Amendments

F11 S. 21 repealed by [Statute Law Revision Act 1867 \(c. 59\)](#)

22 **F12**

Textual Amendments

F12 S. 22 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

23 **F13**

Textual Amendments

F13 S. 23 repealed by [Promissory Oaths Act 1871 \(c. 48\)](#), [Sch. 1](#)

24 **Jurisdictions of baronies, &c. reserved.**

Provided always, that all and every person and persons who shall appear to have been lawfully possessed, on the said twenty-fifth day of March one thousand seven hundred and forty-eight, of any such justiciary, regality, or other jurisdiction hereby abrogated, shall from and after the said twenty-fifth day of March retain such jurisdiction of barony, or other lower jurisdiction, as such person or persons would have been intitled to, in case such justiciary, regality, or other jurisdiction hereby abrogated had never been erected, granted, or existed; such lower jurisdiction nevertheless being always subject to the regulations hereby enacted concerning the like lower jurisdictions throughout that part of the kingdom.

25 **Letters patent, &c. for uniting or erecting lands into baronies to grant jurisdictions only for the recovery of rents and duties, &c. Grants contrary to this Act null.**

And no letters patent, charter, or grant, to be made or granted by his Majesty, his heirs or successors, or by the barons of the Court of Exchequer in Scotland, at any time after the sixth day of June in the year of our Lord one thousand seven hundred and forty-seven, for the uniting or erecting any lands or tenements within Scotland into a barony, lordship, or earldom, or under any other denomination whatsoever, or for annexing any lands or tenements in Scotland to any barony, lordship, or earldom, or other district of the like nature, under any denomination whatsoever, heretofore granted or erected, shall be sufficient or available in law to pass, grant, or convey to the grantee or grantees therein named, or any other person or persons whatsoever, any greater or other jurisdiction than for recovering and uplifting from the vassals, tenant, or possessor of the lands and heretages of the proprietor of such barony, lordship, or earldom, the mails and duties or rents and profits thereof, or for recovery of the multures or services payable or prestable to their mills; and all letters patent, charters,

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gifts, and grants of any of the premisses, to be made contrary to the true intent and meaning of this Act, shall be and they are thereby enacted and declared to be null and void.

26 Jurisdictions vested in royal boroughs reserved.

Provided always, that nothing in this Act shall extend or be construed to extend to take away, extinguish, or prejudice any jurisdiction or privilege by law vested in or competent to the corporation or community of any royal borough in Scotland; and that all such jurisdictions, privileges, and immunities as are by law vested in or competent to such royal boroughs, or any of them, whether within or without the royalty of such boroughs respectively, are and shall be saved and reserved entire to them, or any of them, in such and the same manner, to all intents and purposes, as if this Act had not been made.

27 Cumulative jurisdictions vested in burghs of regality, &c. reserved. Exception.

Provided always, that nothing in this Act contained shall extend or be construed to extend to take away, extinguish, or prejudice any jurisdiction, authority, or privilege by law vested in or competent to the corporation or community of any burgh of regality or of barony in Scotland, or to the magistrates of any such burgh respectively, which are independent of the lord of regality or baron respectively, except any power or privilege of repledging from the sheriffs court, or any other of the King's court; and from and after the said twenty-fifth day of March, the jurisdiction having reserved to such corporation or community, or the magistrates thereof, shall be and be deemed and taken to be cumulative only.

28 F14

Textual Amendments

F14 S. 28 repealed (S.) by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), s. 108, Sch. 7 paras. 5, 9(1), **Sch. 8**

29 F15

Textual Amendments

F15 S. 29 repealed by [Sheriff Courts \(Scotland\) Act 1907 \(c. 51\)](#), **Sch. 2**

30 F16

Textual Amendments

F16 S. 30 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

Status: Point in time view as at 01/02/1991.
Changes to legislation: There are currently no known outstanding effects for the Heritable Jurisdictions (Scotland) Act 1746. (See end of Document for details)

31 F17

Textual Amendments
F17 S. 31 repealed by [Circuit Courts and Criminal Procedure \(Scotland\) Act 1925 \(c. 81\)](#), [Sch.](#)

32, 33. F18

Textual Amendments
F18 Ss. 32, 33 repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(2), [Sch. 2](#)

34 F19

Textual Amendments
F19 S. 34 repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(2), [Sch. 2](#)

35 F20

Textual Amendments
F20 S. 35 repealed by [Statute Law Revision Act 1867 \(c. 59\)](#)

36, 37. F21

Textual Amendments
F21 Ss. 36, 37, 40 repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(2), [Sch. 2](#)

38 F22

Textual Amendments
F22 S. 38 repealed by [Statute Law Revision Act 1948 \(c. 62\)](#), [Sch. 1](#)

39 F23

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Textual Amendments

F23 S. 39 repealed by [Circuit Courts and Criminal Procedure \(Scotland\) Act 1925 \(c. 81\)](#), [Sch.](#)

40 **F24**

Textual Amendments

F24 Ss. 36, 37, 40 repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(2), [Sch. 2](#)

41, 42. **F25**

Textual Amendments

F25 Ss. 41, 42 repealed by [Statute Law Revision Act 1948 \(c. 62\)](#), [Sch. 1](#)

43 **Sheriffs fines abolished. Judges fines to be paid into the Exchequer. Rules to be observed in levying, &c. Sentence money abolished.**

And from and after the said twenty-fifth day of March in the year of our Lord one thousand seven hundred and forty-eight, no fines, forfeitures, or penalties, set, imposed, or recovered in the sheriffs court of any county, shire in Scotland, shall accrue, go, or belong to the sheriff, or any sheriff depute, but all shares of such fines, forfeitures, and penalties as heretofore went to the judge, shall accrue and belong to his Majesty, his heirs and successors, and shall be accounted for and paid into the Exchequer of Edinburgh, in like manner, and the like process, rules, orders, and methods of proceeding shall be issued, observed, and used for levying the same, and compelling the accounting for, bringing in, and paying the same into the said Exchequer, as are now competent by law for the accounting for, levying, bringing in, and paying into the said Exchequer any fines, forfeitures, and penalties accruing or becoming due to his Majesty; and from and after the said twenty-fifth day of March, no fees, poundage, or profits, commonly called sentence money, shall be received, taken, or demanded by any sheriff, sheriff depute, or any of their ministers, officers, or clerks, but all such fees, poundage, or profits, commonly called sentence money, are hereby utterly taken away, discharged, and abolished, any law, custom, gift, grant, usage or practice to the contrary in anywise notwithstanding.

Modifications etc. (not altering text)

C2 Functions of the Treasury under s. 43 now exercisable by Secretary of State: [S.I. 1974/1274](#), [art. 2](#) (4), [Sch.](#)

44 **F26**

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Textual Amendments

F26 S. 44 repealed by [Promissory Oaths Act 1871 \(c. 48\)](#), [Sch. 1](#)

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