



Entail Improvement Act 1770

1770 CHAPTER 51 10 Geo 3

F1
X1
F2
X2

An Act to encourage the improvement of lands, tenements, and hereditaments, in . . .
F3

Scotland, held under settlements of strict entail.

Editorial Information

- X1 Short title “The Entail Improvement Act 1770” given by [Short Titles Act 1896 \(c. 14\)](#)
- X2 [Entail Act 1685 \(c. 26\)](#) cited or referred to by its Short Title under authority of [Statute Law Revision Act 1893 \(c. 14\), s. 3](#)

Textual Amendments

- F1 Act repealed (*prosp.*) by [2000 asp 5, ss. 76\(2\), 77\(2\)\(a\)\(d\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75)
- F2 Certain words of enactment repealed by [Statute Law Revision Act 1888 \(c. 3\)](#) and other words of enactment and certain other words omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3\(1\)\(a\)\(d\)](#)
- F3 Words repealed by [Statute Law Revision Act 1948 \(c. 62\), s. 4\(b\)](#)

Modifications etc. (not altering text)

- C1 Act extended by [Entail Amendment Act 1848 \(c. 36\), s. 20](#), [Entail Cottages Act 1860 \(c. 95\)](#) and [Entail Amendment \(Scotland\) Act 1868 \(c. 84\), s. 8](#)

Preamble reciting an Act of the Scottish Parliament, 1685.

Whereas by the ^{M1}Entail Act 1685—all His Majesty’s subjects are empowered to taillie their lands and estates in Scotland with such provisions and conditions as they shall think fit, and with such irritant and resolute clauses as to them shall seem proper; and which taillies, when completed and published in the manner directed by the said Act, are declared to be real and effectual against purchasers, creditors, and others whatsoever: And whereas many taillies of lands and estates in Scotland, made as well before as after passing the said Act, do contain clauses limiting the heirs of entail from granting tickets

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

or leases of a longer endurance than their own lives, for a small number of years only, whereby the cultivation of land in that part of this kingdom is greatly obstructed, and much mischief arises to the publick; and which must daily increase, so long as the law allowing such entails subsists, if some remedy be not provided: Wherefore, to prevent a mischief and inconveniency so hurtful to the publick.

Marginal Citations

M1 Scots Act. [1685 c. 26](#).

Marginal Citations

M1 Scots Act. [1685 c. 26](#).

[1.] Proprietors of entailed estates may grant tacks for 14 years, and one existing life; or for 2 lives, and life of survivor; or for 31 years.

It shall and may be lawful to every proprietor of an entailed estate within . . . ^{F4} Scotland, to grant tacks or leases of all or any part or parts thereof for any number of years not exceeding fourteen years from the term of Whitsunday next after the date thereof, and for the life of one person to be named in such tacks or leases, and in being at the time of making thereof; or for the lives of two persons to be named therein, and in being at the time of making the same, and the life of the survivor of them; or for any number of years not exceeding thirty-one years from the term aforesaid.

Textual Amendments

F4 Words repealed by [Statute Law Revision Act 1948 \(c. 62\), s. 4\(b\)](#)

2 Specification of terms in which lands so leased are to be inclosed.

Provided always, that every such lease for two lives shall contain a clause obliging the tenant or tenants to fence and inclose in a sufficient and lasting manner all the lands so leased within the space of thirty years, and two third parts thereof within the space of twenty years, and one third part thereof within the space ten years, if the said lease shall continue for such respective terms; and that every such lease for any term of years exceeding nineteen years, shall contain a clause, obliging the tenant or tenants to fence and inclose in like manner all the lands so leased during the continuance of such term, and two third parts thereof before the expiration of two third parts of such term, and one third part thereof before the expiration of one third part of such term.

3 Lease for 2 lives, or more than 19 years, to oblige tenant to keep fences in repair, and to leave them so at expiration. Not more than 40 acres to be comprehended in one field, except where lands are improper for culture by the plough.

And provided also, that every such lease for two lives, or for any term of years exceeding nineteen years, shall contain a clause obliging the tenant or tenants to keep and preserve the fences, when made, in good and sufficient repair during the lease, and to leave them so at the expiration thereof; and that no inclosures which shall be made, shall comprehend more than forty acres in one field; excepting where the lands

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

consist of hills or other grounds incapable or improper by their nature for culture by the plough; in which case, the inclosures may be made of such extent as the nature of the ground shall require.

4 Building leases may be granted for 99 years.

And whereas the building of villages and houses upon entailed estates may, in many cases, be beneficial to the publick, and might often be undertaken and executed, if heirs of entail were empowered to encourage the same by granting long leases of lands for the purpose of building: Be it therefore enacted by the authority aforesaid, that it shall be, and it is hereby declared to be, in the power of every proprietor of an entailed estate, to grant leases of land for the purpose of building, for any number of years not exceeding ninety-nine years.

5 But not for more than 5 acres to one person; conditionally, that one dwelling-house be built, etc. for every half acre.

Provided always, that not more than five acres shall be granted to any one person, either in his own name, or to any other person or persons in trust for him; and that every such lease shall contain a condition that the lease shall be void, and the same is hereby declared void, if one dwelling-house at least, not under the value of ten pounds sterling, shall not be built within the space of ten years from the date of the lease, for each one half acre of ground comprehended in the lease; and that the said houses shall be kept in good, tenantable, and sufficient repair; and that the lease shall be void whenever there shall be a less number of dwelling-houses than one, of the value aforesaid, to each one half acre of ground, kept in such repair as aforesaid, standing upon the ground so leased.

6 Manor-place not to be leased, nor village built within 300 yards thereof.

Provided also, that the power of leasing hereby given shall not in any case extend to, or be understood to comprehend, a power of leasing, or setting in tack, the manor-place, office-houses, gardens, orchards, or inclosures adjacent to the manor-place, which have usually been in the natural possession of the proprietor, or have not been usually let for a longer term than seven years, when the heir in possession was of lawful age; and that no lease of lands shall be granted, under the authority of this Act for the purpose of building villages or houses within three hundred yards of the manor-place in the natural possession of the proprietor.

7 Lease not to be granted for less rent than was payable for the last lease; nor till determination thereof, etc.

Provided always, that all leases made or to be granted under the authority of this Act, shall be made or granted for a rent not under the rent payable by the last lease or sett, and without grassum fine or foregift, or any benefit whatsoever, directly or indirectly, reserved or accruing to the granter, except the rent payable by the lease; and that no such lease shall be granted till after the end or other determination of any former lease of the same premises, or that such lease, if granted for a time certain, shall be within one year of being determined, and that all leases otherwise granted shall be void and null.

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

8 Taillie containing ample powers, heir in possession may exercise the same.

And if any taillie shall, either expressly or by implication, contain powers of leasing more ample than are hereby given; the heirs of entail in possession shall be at liberty to exercise all such powers, in the same manner as if this Act had never been made.

9 Proprietor laying out money for improvement of estate to be a creditor to succeeding heir for three fourths thereof;

And whereas it may be highly beneficial to the public, if proprietors of entailed estates were encouraged to lay out money in inclosing, planting, or draining, or in erecting farm-houses, and offices or out-buildings for the same, upon their entailed lands and heritages: And whereas such proprietors may be induced and encouraged so to do, if they, their executors and assigns, were secured in recovering a reasonable satisfaction for the money expended in making such improvements, from the succeeding heirs of entail; Be it therefore enacted by the authority aforesaid, that every proprietor of an entailed estate who lays out money in inclosing, planting, or draining, or in erecting farm-houses, and offices or out-buildings for the same, for the improvement of his lands and heritages, shall be a creditor to the succeeding heirs of entail for three fourth parts of the money laid out in making the said improvements.

10 provided the same do not exceed 4 years free rent after deduction of burdens, etc.

Provided always, that the sum or sums of money laid out upon such improvements, by any one heir of entail during his or her possession, shall not, in any case whatever, be effectual to constitute a claim against the succeeding heir of entail, for more than four years free rent of the said entailed estate, after deduction of all publick burdens, life-rents, and interests of debts, which may affect the said estate, as the same shall happen to be at the first term of Whitsunday after the death of the heir who expended the money claimed.

11 Proprietor intending to lay out money on improvements to give notice thereof; and lodge a copy thereof with sheriff or steward clerk;

Provided also, that every proprietor of an entailed estate, who intends to lay out money on such improvements, shall, three months at least before he begins to execute the same, give notice in writing to the heir of entail next entitled to succeed to the said estate after the heirs of the body of the said proprietor, if within Great Britain or Ireland, and if the heir next entitled to succeed is not within Great Britain or Ireland, shall give notice in writing to the nearest male relation by his father of lawful age, or to his known factor or attorney, of such his intention, specifying in such notice the kind of improvement intended, and the farms or parts of the estate upon which the improvements are intended to be made; and shall lodge a copy thereof with the sheriff or steward clerk of the county wherein the lands lie.

12 and laying out money with intent to become a creditor, to lodge annually with the sheriff or steward clerk, an account of money expended, etc.

Provided likewise, that the proprietor of an entailed estate, who lays out money in making improvements upon his entailed estate, with an intent of being a creditor to the succeeding heirs of entail in the manner above expressed, shall annually, during

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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](#)

the making such improvements, within the space of four months after the term of Martinmas, lodge with the sheriff or steward clerk of the county within which the lands and heritages improved are situated, an account of the money expended by him in such improvement during twelve months preceding that term of Martinmas, subscribed by him, with the vouchers by which the account is to be supported when payment shall be demanded or sued for.

13 Heir of entail laying out 4 years free rent, subsequent heir not to lay out more.

Provided also, that when a sum equal to four years free rent shall have been laid out, in manner above-mentioned, by one or more heir or heirs of entail, and shall remain a subsisting charge against the succeeding heirs; it shall not be lawful for any subsequent heir or heirs to lay out any more money under the authority of this Act, for any of the improvements afore-mentioned.

14 Sheriff and steward clerks to record vouchers and make copies thereof. Fees for the same.

And that all sheriff clerks, with whom the accounts, vouchers, and copies of notice shall be lodged, shall, within the space of one month thereafter, record them in a book to be kept for that purpose, and return them when called for; and shall make the book patent to all persons desirous to see the same; and shall give certified copies or extracts of all accounts, vouchers, and copies of notice recorded, they receiving for their trouble the usual fees for recording writings and giving out extracts, and sixpence sterling from each person who shall have inspection of the book wherein the accounts, vouchers, and copies of notice shall be recorded.

Modifications etc. (not altering text)

C2 S. 14 amended by [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

15 Successive claims may be made for money expended, with interest. On nonpayment within 3 months, action may be instituted against heir in possession. Persons obtaining decree, to have preference of other creditors.

And that the executor or executors, assignee or assigns, or other person or persons, having right to the claim arising from money expended by the proprietor of an entailed estate in the improvement thereof, may after the expiration of one year from the death of the heir who expended the money, require the heir next succeeding to the estate, to pay such part thereof as is due by the authority of this Act, with the legal interest, from the term at which the succeeding heir's right to the rents of the estate did commence, upon receiving a proper discharge and assignment of the said claim; and if the money is not paid within three months of such requisition, it shall then be lawful for the person or persons having right, to institute an action in the Court of Session against the heir then in possession, for compelling him to pay the money, and interest thereof; and upon obtaining a decree, he, she, or they shall be at liberty to use every kind of diligence or execution, authorized by the law of Scotland in recovering payment of debts, excepting adjudication against the entailed estate improved; and in all questions of competition for the rents of the entailed estate, the person or persons who have sued for and obtained a decree under the authority of this Act, or the person or persons

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

having right to such decree, shall be preferred to the other creditors of the heir of entail who has succeeded to the estate.

16 Heir sued for money due for improvements, to be discharged, on conveying to creditors one third of clear rents, etc.

Provided always, that when any heir in possession is sued for the money due on account of improvements made upon an entailed estate, under the authority of this Act, he shall be discharged in all cases from such suit, upon his assigning and effectually conveying to the creditor or creditors one third part of the clear rents of the entailed estate, during his life, or until the money so due shall thereby be paid off and discharged.

17 Persons in the right of money due, may sue the heirs of next heir, or heir next succeeding, and, in competition, shall be preferred to personal creditors, and likewise succeeding heirs, with like preference.

And whereas it may happen that the heir of entail, who next succeeds the proprietor who expended the money in the improvement of the entailed estate may die before the money due by him on account of improvements made upon the estate is paid, by which the person or persons in the right of the money due may be embarrassed in recovering payment: For remedy whereof, the person or persons in the right of the money due, may either sue the heirs and successors of the said next heir of entail in any other than the entailed estate, or the heir of entail next succeeding to him, or both, and use every kind of diligence or execution, authorized by the law of Scotland in the recovering payment of debts, against them and their estates, excepting adjudication against the entailed estate, until the money due is fully satisfied and paid; and the person or persons in the right of the money due shall, in any competition for the rents of the entailed estates, be preferred to the personal creditors of the heir of entail in possession; and the person or persons in the right of the money due, in like manner shall be intitled to sue every succeeding heir of entail, until the money is satisfied and paid; and shall have the same preference to the rents of the entailed estate in competition, with the creditors of such heirs of entail.

18 Relief, competent to successive heirs, to the extent of one third part of the rents.

Provided always, that the heir who next succeeds in the entailed estate to the proprietor who expended the money, under the authority of this Act, in making improvements upon the estate, and the heirs and successors of such heir, shall be bound to relieve all subsequent heirs of all or such parts of the debt, incurred by the improvement of the estate under the authority of this Act, as shall be paid by them, to the extent of one third part of the rents which have come to the use of such first succeeding heir, or to the use of his heirs or executors; and when the third part of the rents which have come to the use of the first succeeding heir, or to his heirs or executors, are exhausted, then the next succeeding heir, and his heirs and successors, shall in like manner be bound to relieve all subsequent heirs, to the extent of one third part of the rents which have come to their use; and relief shall in like manner be competent to every succeeding heir who shall pay, against the heirs and successors of the preceding heir.

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

19 Heirs of entail, etc. sued on account of improvements, shall be discharged, on payment of one third of their rents.

Provided also, that when the heirs and successors of an heir of entail, in any other than the entailed estate, are sued for the money due on account of improvements made upon an entailed estate under the authority of this Act, they shall be discharged in all cases from such suits, upon making payment of one third part of the rents of the entailed estate which have come to the use of such heir of entail, or to the use of his said heirs or successors.

20 Claimant of money expended by proprietor, to require payment, within 2 years after his decease, of succeeding heir: and on nonpayment for 6 months, to institute action etc.

And whereas inconveniences and confusion might arise from the executor, assignee, or other person or persons having right to the claim arising from money expended by the proprietor of an entailed estate in the improvement thereof, their not timeously requiring the heir next succeeding in the estate to pay what they are entitled to receive by authority of this Act, and suing such heir to compel him to pay, if payment is not made: For remedy whereof, the executor, assignee, or other person or persons having right to the claim arising from money expended by the proprietor of an entailed estate in the improvement thereof, shall be obliged, within the space of two years after the death of the proprietor who expended the money, to require payment from the succeeding heir; and within the space of six months after the lapse of the said two years to institute an action if the money is not paid, in the Court of Session; and to proceed without delay in recovering a decree for the sum due, and doing exact diligence for recovering payment thereof, or at least to the amount of one third part of the free rents of the estate which shall have become due to such succeeding heir.

21 but neglecting so to do, and not recovering one third part of rents, etc. before his decease, shall cease to be creditor to subsequent heirs for such sum; and such third part to be recoverable only from executors, etc. of first heirs, etc. and surplus from subsequent succeeding heirs.

Provided always, that the executor, assignee, or other person or persons, having right to the claim arising from money expended by the proprietor of an entailed estate, who shall neglect to require the next, or any other succeeding heir or heirs to pay, and shall allow such succeeding heir or heirs to die without recovering payment from him or them to the amount of one third part at least, of the rents that shall have become due to such heir or heirs, shall cease to be creditor to the subsequent succeeding heir or heirs respectively, to the extent of one third part of the rents which shall have become due to the heir or heirs so deceasing as aforesaid; and shall be intitled to recover payment of his claim to the extent of such third part of the rents, from the executors or heirs only of the first or any other succeeding heir or heirs, in any other estate than the entailed estate; and shall be intitled to recover payment of the surplus of his claim, if any be, and no more, from the subsequent succeeding heir or heirs respectively.

22 Heir first succeeding, not living long enough to be indemnified for what he pays, his executors may sue succeeding heir of entail for relief, etc. Like relief to executors of every heir who is not repaid.

And whereas it may happen that the heir, who next succeeds to the proprietor who expended money in making improvements upon an entailed estate, may pay all or part

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

of the money due on account of such improvements, and may not live so long as to be indemnified by the third part of the rents which shall come to his use, or to the use of his heirs or executors; if the heir who first succeeds in the entailed estate to the proprietor who expended the money, does pay all or part of the money due on account of the improvements made, and shall not live long enough to be indemnified of what he pays by one third part of the rents that shall come to his use, or to the use of his heirs or executors; it shall be competent to his executors or assigns to sue the succeeding heir of entail for relief of such part of the money as shall not be repaid by the third part of the rents which have come to his use, or to the use of his heirs or executors; and relief shall in like manner be competent to the executors or assigns of every heir of entail who pays more than is repaid by the third part of the rents which have come to his use, or to the use of his heirs and executors.

23 Money expended in making improvements, not to be made use of as a ground of debt for adjudging estates.

And no money expended in making improvements upon an entailed estate, for which a decree shall be obtained in the Court of Session, shall be made use of as a ground of debt for adjudging the estate upon which the improvements have been made; and if any decree of adjudication shall be obtained against the entailed estate for such debts, every such decree shall and is hereby declared to be void.

24 Heir of entail succeeding to estate upon which improvements have been made, excluded from making claim of debt.

And if the heir of entail who shall succeed to an entailed estate upon which improvements have been made, shall have right to a claim of debt arising from the making of such improvements as next of kin, or by the will or settlements of the heir of entail who expended the money; in every such case, the claim of debt shall and is hereby declared to be extinguished for ever, and shall never be set up as a debt against any succeeding heir.

25 On judgment obtained against heir for whole debt created by improvements, defender to be liable in full costs; if otherwise, court to award costs at discretion.

And if any heir of entail, against whom a debt is created for improvements made on the entailed estate to which he succeeds, shall refuse to pay the money required of him under the authority of this Act, and that decrees shall be obtained against him for the whole of the sum or sums of money of which he shall be required to make payment; in every such case the defender shall be liable in full costs of suit; and if decree is not obtained for the full sum or sums of money of which payment has been required, it shall be in the discretion of the court to award costs of suit to either party, as the justice of the case shall direct.

26 Heir of entail, after having completed improvements, may bring action of declarator, etc. and produce evidence of money laid out. Court of Session, etc. may decree what sum shall be a charge on succeeding heirs, etc.

And whereas questions may arise concerning the amount of the sums laid out under the authority of this Act, at a great distance of time, when the material witnesses may be dead: For remedy whereof and for ascertaining, in due time, the amount of the sums so expended: it shall and may be lawful for every heir of entail, after he shall have laid

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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

out money upon the improvement of his entailed estate as aforesaid, and shall have completed the improvement of all or any particular part of such estate, to bring, if he shall think proper, an action of declarator before the Court of Session, or a process before the sheriff, in which he shall call the heir next intitled to succeed after the heirs of his own body, and shall in such suit produce proper evidence of the money laid out in such improvements; and the said next heir, or any other heir of entail, shall be intitled to produce proper evidence to set aside or diminish the said claim: and it shall and may be lawful for the said Court of Session, or for the said sheriff, to pronounce a decree for such part of the said sum, as, by the true intent and meaning of this Act is intended to become a charge against the succeeding heirs in the said entailed estate; which decree, if pronounced by the sheriff, shall become final, unless carried to the Court of Session by suspension within six months after the same shall have been pronounced; and if pronounced by the Court of Session, either in such process of declarator or suspension, shall be final if an appeal is not brought within twelve months.

27 Heir of entail building mansion-house, etc. to be a creditor to succeeding heir for three fourth parts of the expence:

And whereas it frequently happens that there are not, upon entailed estates, mansion-houses and offices suitable to the estates, and fit for the accommodation of the heirs of entail; and that mansion-houses and offices upon entailed estates are sometimes destroyed by fire, or from other accidental causes, or become insufficient by length of time; and it being beneficial to the public to encourage heirs of entail, in such cases, to build houses and offices suitable to their estates, and fit for the accommodation of their families; Be it therefore enacted by the authority aforesaid, that every heir of entail who lays out money in building a mansion-house or offices, or in repairing or adding to the mansion-house or offices upon his estate, shall be a creditor to the next succeeding heir of entail for three fourth parts of the money expended by him.

28 but the same is not to exceed 2 years rent, after burdens, etc. deducted.

Provided always, that the sum or sums of money laid out by any one heir of entail, in the building a mansion-house or offices, or in the repairing or adding to the mansion-houses or offices, shall not, in any case whatever, be effectual to constitute a claim against the succeeding heir of entail for more than two years rent of the said entailed estate, after deduction of all publick burdens, life rents, and interests of debts, which may affect the said estate, as the same shall happen to be at the first term of Whitsunday after the death of the heir who expended the money claimed.

29 Proprietors laying out money, to give notice, and record copies thereof.

Provided also, that the proprietor of the entailed estate, who lays out the money, shall, previous thereto, give notice in writing to the heir of entail next entitled to succeed to the said estate after the heirs of his own body; and record copies of the same, together with the accounts of the money expended, and the vouchers thereof, in the sheriff court books of the county within which the mansion-houses and offices are situated, in the form and manner above directed with regard to monies expended in making improvements upon entailed estates.

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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](#)

30 Persons having right to claim for money expended by proprietor in building mansion-house, etc. may, within a year after decease, require heir succeeding to pay the whole, with interest: and on non-payment for three months, may sue.

And the executor or executors, assignee or assignees, or other person or persons having right to the claim arising from money expended by the proprietor of an entailed estate, in the building a mansion-house or offices, or in the repairing or adding to the mansion-house or offices upon his estate, may, after the expiration of one year from the death of the heir who expended the money, require the heir next succeeding to the estate to pay the whole; or such part thereof as is due by the authority of this Act, with the legal interest from the term at which the succeeding heir's right to the rents of the estate did commence, upon receiving a proper discharge and assignment of the said claim; and if the money is not paid within three months of such requisition, it shall be lawful for the person or persons having right, to sue the next succeeding heir in the manner above directed for the recovering of money expended in the improvement of entailed estates.

31 Rules enacted with respect to proprietors making improvements extended to claims here mentioned.

And the same rules of relief among succeeding heirs of entail, and their heirs and successors, of the claim of debt, and of preference in competition for rents, and in subjecting defenders to the payment of costs, and for ascertaining the amount of the sum laid out, shall take place with regard to monies expended in the building, repairing, or adding to the mansion-houses or offices upon entailed estates under the authority of this Act, as are before enacted, with respect to monies expended by proprietors of entailed estates, in making improvements upon their estates for increasing the rents and value of them.

32 Proprietors of entailed estates empowered to exchange lands:

And whereas it may frequently happen, that the inclosing of lands in Scotland may be retarded or prevented, or at least rendered inconvenient, by heirs of entail not having it in their power to exchange small parcels of the lands of their entailed estates for other lands convenient for the entailed estate; and more conducive to the improvement of the country in general: For remedy whereof, it shall and may be lawful for proprietors of entailed estates to excamb or make exchanges of land, with all and every person or persons, for the conveniency and advantage of the said estates, and for the improvement of the country where such estates are situated, by inclosing or otherways.

33 Limitation of quantity to be exchanged; for which an equivalent is to be made from lands contiguous. Value of lands exchanged, how to be adjusted, and property thereof determined.

[^{F5}Provided, that not more than thirty acres of arable land, nor more than one hundred acres of lands consisting of hills or other grounds incapable or improper by their nature for culture by the plough, of such entailed estates, lying together in one place or plot, shall be given in exchange; and that an equivalent in land, contiguous to the entailed estate with which the exchange is to be made shall be received in place of the land given in exchange]: and for ascertaining and adjusting the value of the lands proposed to be exchanged, an application shall be made for that purpose by the proprietor of the entailed estate, to the sheriff or steward of the county within which the entailed estate is situated, who thereupon shall appoint two or more skilful persons to inspect

Changes to legislation: Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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](#)

and adjust the value of the lands proposed to be excambed or exchanged; and upon such persons settling the marches of the lands proposed to be exchanged, and reporting upon oath that the exchange will be just and equal, the sheriff or steward may, and is hereby required to authorize the exchange to be made by a contract of excambion; and which being executed and recorded in the sheriff or steward books within three months after the execution thereof, the same shall be effectual to all intents and purposes; and the land given in exchange to the entailed estate shall be held to be a part thereof, and shall be subject to all the prohibitory, irritant, and resolute clauses of the entail, in the same manner as if it had been originally a part of the estate; and the lands given from the entailed estate shall from thenceforth be held as out of the entail and be liberated from all the prohibitory, irritant, and resolute clauses thereof.

Textual Amendments

F5 Words repealed by [Entail Amendment \(Scotland\) Act 1868 \(c. 84\), s. 14](#) but reproduced for the purpose of construing the Act

Modifications etc. (not altering text)

C3 [S. 33](#) extended by [Entail Amendment \(Scotland\) Act 1868 \(c. 84\), s. 14](#)

34 This Act to extend to all tallies made in Scotland, whether prior or posterior to the Act of 1685.

And this Act shall extend to, and comprehend, all tallies of lands or heritages in . . .
^{F6}Scotland, made or to be made, and whether prior or posterior to the said Act made in the year one thousand six hundred and eighty-five.

Textual Amendments

F6 Words repealed by [Statute Law Revision Act 1948 \(c. 62\), s. 4\(b\)](#)

Changes to legislation:

Entail Improvement Act 1770 is up to date with all changes known to be in force on or before 02 September 2022. 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.

[View outstanding changes](#)

Commencement Orders yet to be applied to the Entail Improvement Act 1770

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2003/456 art. 2](#) commences ([2000 asp 5](#))