



# Entail (Scotland) Act 1882

1882 CHAPTER 53 45 and 46 Vict

## 13 Consent of nearest heir may be valued and dispensed with.

In any application under the Entail Acts to which the consent of the heir apparent or other nearest heir is required, and such heir or the curator ad litem appointed to him in terms of this Act shall refuse or fail to give his consent, the Court shall ascertain the value in money of the expectancy or interest in the entailed estate of such heir with reference to such application, and shall direct the sum so ascertained to be paid into bank in name of the said heir, or that proper security therefor shall be given over the estate, and shall thereafter dispense with the consent of the said heir, and shall proceed as if such consent had been obtained, and the provisions of sections five and six of the <sup>M1</sup>Entail Amendment (Scotland) Act, 1875, shall apply to the nearest heir as well as to other heirs, and shall apply to all applications to which consents are required, and to entails dated on or after the first day of August one thousand eight hundred and forty-eight, as well as to entails dated prior to that date.

Provided that if the application is opposed by any creditor of such heir who shall prove that prior to the passing of this Act he has lent money to such heir on the security of his right of succession to or interest in the entailed estate, or by the wife or children of such heir in whose favour he shall have granted provisions under the Entail Acts, the consent of the heir shall not be dispensed with until arrangements have been made for the payment or security of the creditor or wife or children to the satisfaction of the Court. If the heir apparent or other nearest heir whose consent is required as aforesaid shall have assigned his expectancy or interest, and the assignee shall have intimated the assignation to the heir in possession for the time being, at any time prior to the recording of the instrument of disentail, such assignee shall be entitled to appear at any time prior to such recording, and to demand that the value in money of such expectancy or interest shall be ascertained, and shall be entitled to a preference upon such value according to the date of the intimation of his assignation, and such preference shall be given effect to in his favour when the value of such expectancy or interest is paid or secured.

### Marginal Citations

M1 1875 c. 61.

**Changes to legislation:**

Entail (Scotland) Act 1882, Section 13 is up to date with all changes known to be in force on or before 01 October 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.

[View outstanding changes](#)

**Commencement Orders yet to be applied to the Entail (Scotland) Act 1882**

Commencement Orders bringing legislation that affects this Act into force:

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