



# Public Records (Scotland) Act 1937

1937 CHAPTER 43 1 Edw 8 and 1 Geo 6

## PART III

### GENERAL

#### 7 Advisory Council.

- (1) There shall be constituted a Council to be called the Scottish Records Advisory Council, consisting of not more than twelve members, who shall be persons, or representatives of public bodies or societies, interested in the public records of Scotland.
- (2) The members of the aforesaid Council [<sup>F1</sup>, including the chairman,] shall be appointed by the Secretary of State, shall hold office for three years from the date of their appointment, and shall be eligible for reappointment on expiry of that period:  
  
[<sup>F2</sup>Provided that the Keeper shall be ex officio a member and chairman and convener of the Council.]
- (3) The aforesaid Council may submit proposals or make representations to the Secretary of State, the Lord Justice General, or the Lord President on questions relating to the public records of Scotland, and in particular to the custody, preservation, indexing, and cataloguing of those records, and to facilities for access to and examination of them by members of the public.
- (4) The Council may make rules regarding their procedure and may by such rules prescribe their quorum.

#### Textual Amendments

- F1** Words inserted by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), **ss. 19(1)(a)**, 25(1)
- F2** Words ceased to have effect by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), **ss. 19(1)(b)**, 25(1)

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*Changes to legislation: There are currently no known outstanding effects for the Public Records (Scotland) Act 1937, Part III. (See end of Document for details)*

## 8 Preservation, &c. of records.

The Keeper shall take such steps as may seem to him necessary for the cleaning, preserving, repairing and arranging of any records transmitted to him in pursuance of this Act or otherwise, and for the making of calendars, indexes and catalogues thereof.

### Modifications etc. (not altering text)

- C1** S. 8 modified (S.) (5.2.2009) by Scottish Register of Tartans Act 2008 (asp 7), ss. 3(2), 18(2); S.S.I. 2009/5, art. 2

## 9 Extracts from records.

The Keeper shall have power to issue extracts or certified copies of any records transmitted to him in pursuance of this Act or otherwise, and any such extract or copy shall be of the like force and effect in all respects and for all purposes as if it had been an extract or copy issued in accordance with the law and practice existing immediately prior to the passing of this Act.

### Modifications etc. (not altering text)

- C2** S. 9 restricted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 20(11)(b)  
**C3** S. 9 modified (S.) (5.2.2009) by Scottish Register of Tartans Act 2008 (asp 7), ss. 3(2), 18(2); S.S.I. 2009/5, art. 2

## 10 Fees for inspection and search of records.

The Court of Session may from time to time, with the approval of the Treasury, prescribe by Act of Sederunt a table of fees to be charged for inspection, search, and making copies of any records transmitted to the Keeper in pursuance of this Act or otherwise. Provision may be made, in prescribing any such table, for the remission of fees for the inspection of records for historical or literary purposes.

### Modifications etc. (not altering text)

- C4** S. 10 modified (S.) (5.2.2009) by Scottish Register of Tartans Act 2008 (asp 7), ss. 3(2), 18(2); S.S.I. 2009/5, art. 2

## 11 Catalogues, &c. of records.

The Keeper shall have power <sup>F3</sup> . . . to purchase any catalogues, calendars and indexes of records transmitted to him in pursuance of this Act or otherwise, which may have been prepared by any person or body, and to arrange for the sale of copies of any catalogue, calendar or index whether prepared by him or by any other person or body.

### Textual Amendments

- F3** Words in s. 11 repealed (1.7.1999 as specified in S.I. 1998/3178, art. 3) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 17(3), Pt. IV

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#### Modifications etc. (not altering text)

- C5 S. 11 modified (S.) (5.2.2009) by [Scottish Register of Tartans Act 2008 \(asp 7\)](#), ss. 3(2), 18(2); S.S.I. 2009/5, art. 2

### [<sup>F4</sup>11A Powers of Keeper.

Without prejudice to any other power he may have under this or any other enactment, the Keeper may—

- (a) accept responsibility for the safe keeping of records other than public records; and
- (b) acquire records and accept gifts and loans of records.]

#### Textual Amendments

- F4 S. 11A inserted by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), s. 19(2)

## 12 Disposal of documents not to be preserved by the Keeper.

- (1) The Lord Justice General, as regards records of the High Court of Justiciary, the Lord President, as regards other court records, and the Secretary of State, as regards any other records to which this Act applies, may make regulations regarding the disposal by destruction or otherwise of records which have been transmitted to the Keeper in pursuance of this Act or otherwise, and which are of insufficient value to justify their preservation or which would more appropriately be in the custody of any person, body or institution other than the Keeper.
- (2) Regulations under this section shall not be made until a draft thereof has lain before each House of Parliament for a period of thirty days during the Session of Parliament, and if, before the expiration of that period, an address is presented to His Majesty by either House against the draft, no further proceedings shall be taken thereon, without prejudice however to the making of any new draft regulations:

Provided that in reckoning any such period of thirty days as aforesaid no account shall be taken of any time during which both Houses are adjourned for more than four days.

- (3) No regulations made under this section shall authorise—
  - (a) the disposal of records relating to a Government department or belonging to a local authority without the consent of that department or authority; or
  - [<sup>F5</sup>(b) the disposal by destruction of any records of older date than the year 1707.]

#### Textual Amendments

- F5 S. 12(3)(b) substituted by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), s. 19(3)

#### Modifications etc. (not altering text)

- C6 S. 12 extended by [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\)](#), s. 5
- C7 S. 12 modified (S.) (5.2.2009) by [Scottish Register of Tartans Act 2008 \(asp 7\)](#), ss. 3(2), 18(2); S.S.I. 2009/5, art. 2

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VALID FROM 01/01/2005

#### **[<sup>F6</sup>12A Duty to afford facilities for inspection etc. of certain records**

It shall be the duty of the Keeper to arrange that reasonable facilities are available to the public for—

- (a) inspecting; and
- (b) obtaining copies of,

such records held by the Keeper as either fall to be disclosed in accordance with the Freedom of Information (Scotland) Act 2002 (asp 13) or comprise information which is exempt information (within the meaning of that Act) by virtue of section 25(2)(b)(ii) of that Act.]

#### **Textual Amendments**

**F6** S. 12A inserted (S.) (1.1.2005) by 2002 asp 13, ss. 70(3), 75(1) (with s. 66); S.S.I. 2004/203, art. 3(2)

### **13 Provision for discharge of duties of Extractor of the Court of Session.**

- (1) The Keeper shall exercise and perform the powers and duties conferred or imposed on the Principal Extractor of the Acts and Decrees of the Court of Session by any order made in pursuance of section seven of the <sup>M1</sup>Reorganisation of Offices (Scotland) Act 1928, and the other powers and duties of such Principal Extractor and of his Assistant shall be exercised and performed by such clerks and officers of the Court of Session as the Principal Clerk of Session may, subject to the directions of the Lord President, from time to time appoint.

<sup>F7</sup>(2) .....

#### **Textual Amendments**

**F7** S. 13(2) repealed by Statute Law (Repeals) Act 1981 (c. 19), Sch. 1 Pt. XII

#### **Marginal Citations**

**M1** 1928 c. 34.

### **14 Interpretation.**

- (1) In this Act, unless the context otherwise requires—

the expressions “records of the Court of Session” and “records of the High Court of Justiciary” mean the registers, minute books, processes, writs or documents belonging to or in the custody of the Court of Session (including the Court of Teinds as defined in the <sup>M2</sup>United Parishes (Scotland) Act 1876) and the High Court of Justiciary respectively;

the expression “sheriff court records” includes the registers, minute books, processes, writs or documents belonging to or in the custody of sheriff courts or sheriff clerks;

<sup>F8</sup> . . .

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the expression “court records” includes the records of the High Court of Justiciary, the records of the Court of Session and sheriff court records <sup>F9</sup>. . .

[<sup>F10</sup>the expression “local authority” means an authority constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and includes a joint board and a joint committee;

the expression “statutory body corporate” shall be construed in accordance with section 5(2A) above.]

- (2) Any question as to whether any document is or is not a record of the High Court of Justiciary or of the Court of Session or is or is not a sheriff court record or is <sup>F9</sup>. . . shall be determined by the Lord Justice General, in the case of the said High Court, and in any other case by the Lord President.

**Textual Amendments**

**F8** Definition of “justice of the peace records” repealed by [District Courts \(Scotland\) Act 1975 \(c. 20\)](#), [Sch. 2](#)

**F9** Words repealed by [District Courts \(Scotland\) Act 1975 \(c. 20\)](#), [Sch. 2](#)

**F10** S. 14: definitions of "local authority" and "statutory body corporate" inserted (S.) (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 22\(3\)](#) (with s. 128(8)); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

**Marginal Citations**

**M2** [1876 c. 11](#).

<sup>F11</sup>15, .....  
16.

**Textual Amendments**

**F11** [Ss. 15, 16](#) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#), [Sch. 1](#)

17 **Short title.**

This Act may be cited as the Public Records (Scotland) Act 1937.

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