



Entail Amendment Act 1848

1848 CHAPTER 36 11 and 12 Vict

An Act for the amendment of the law of entail in Scotland.

[14th August 1848]

Whereas the law of entail in Scotland has been found to be attended with serious evils, both to heirs of entail and to the community at large, and it is expedient that the same be amended in manner herein-after provided for:

Modifications etc. (not altering text)

- C1 Short title “The Entail Amendment Act 1848” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act extended by [Entail Cottages Act 1860 \(c. 95\)](#)
- C3 Certain words of enactment repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)
- C4 [Accumulations Act 1800 \(c. 98\)](#) cited or referred to by its short title under authority of [Statute Law Revision Act 1893 \(c. 14\), s. 3](#)

[^{F1}1.] **Heir born after the date of any future entail may disentail the estate; born before, may do so with consent of heir next in succession, being heir apparent under the entail.**

.....

Textual Amendments

- F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}2 **Heir in possession under an existing entail born after 1st August 1848 may disentail; born before that date, may do so with consent of heir next in succession, being heir apparent born after 1st August 1848.**

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F13 Heir of entail under an existing entail may disentail, with certain consents.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C5 S. 3 amended by [Entail Amendment \(Scotland\) Act 1875 \(c. 61\)](#), s. 5

F14 Heir of entail may sell, charge, lease, and feu, with the like consents as enable him to disentail.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F15 Heir of entail under existing entail may excamb, with certain consents.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C6 S. 5 amended by [Entail Amendment \(Scotland\) Act 1868 \(c. 84\)](#), s. 18

F16 Provision for disclosure of entailer’s debts which affect the estate disentailed.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

F17 Creditors in entailer's debts, &c. using inhibition not to be affected by instrument of disentail.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F18 Settlements by marriage contract not to be disappointed.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C7 S. 8 saved by [Entail Amendment \(Scotland\) Act 1875 \(c. 61\)](#), **s. 5(3)**

F19 Heirs of entail not to give consent in opposition to creditors in debts now existing.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F110 Heir apparent under future tailzie not to give consent in opposition to his creditors.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F111 Creditor of an heir empowered to disentail may affect the estate for payment of his debt.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

12 **F2**

Textual Amendments

F2 S. 12 repealed by [Entail Amendment \(Scotland\) Act 1868 \(c. 84\)](#), **s. 8**; and ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}13 Heir having obtained decree for expense of improvements may grant bond of annual rent.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}14 Heir in future expending money in improvements may grant bond of annual rent.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}15 Executor may call on heir in possession to grant bond of annual rent.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}16 Proceedings where improvements not executed in terms of 10 G. 3.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}17 No adjudication for annual rent. Annual rent, how to be recovered. Annual rent to be kept down.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}18 Heir of entail may charge estates by granting bond and disposition in security.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}19 Bonds of annual rent or of dispositions in security for improvements to operate as discharges.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}20 Private roads to be deemed improvements under 10 G. 3. c. 51. and under this Act.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F1}21 Provisions to younger children may be made charges upon the entailed estate.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F122 Heir in possession to keep down the interest on provisions to children.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F123 Provisions to children not to be charged without authority of court.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F124 Power to grant feus or long leases.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F125 Where entailed estate may be charged with debt, estate may be sold for payment thereof.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F126 Money arising from sale of estate, and trust money, may be applied in payment of entailer’s debts, &c.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F127 Money vested in trust for the purchase of land to be entailed may be dealt with as if it were the entailed land.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F128 Date of Act, &c. directing entail deemed to be date when land should have been entailed.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F129 Provisions to wives and children may be granted out of money vested in trust for the purchase of lands to be entailed.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F130 Creditor not to sell land in excess of what is necessary to pay debt affecting the estate, and re-investment of surplus.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

F1 31 Guardians may consent for minors.

.....

Textual Amendments

F1 Ss. 1-31 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

32 Form and effect of instrument of disentail, and registration thereof.

An instrument of disentail under this Act ^{F3}... shall have the effect of absolutely freeing, relieving, and disencumbering the entailed estate to which such instrument applies, and the heir of entail in possession of the same, and his successors, of all the prohibitions, conditions, restrictions, limitations, and clauses irritant and resolute, of the tailzie under which such estate is held, and of entitling such heir in possession to alter the course of succession prescribed by such tailzie, and to alienate and dispone such estate, onerously or gratuitously, and to burden the same with debt, and to do any other act or deed in relation thereto competent by law to any absolute proprietor in fee simple: Provided always, that such instrument of disentail shall in no way defeat or affect injuriously any charges, burdens, or incumbrances, or rights or interests, of whatsoever kind or description, held by third parties, and lawfully affecting the fee or rents of such estate, or such heir in possession or his successors, other than the rights and interests of the heirs substitute of entail in or through the tailzie under which such estate is held, but that all such charges, burdens, and incumbrances, and rights and interests, other than as aforesaid, shall remain at least as valid and operative in all respects as if no such instrument of disentail had been executed or recorded.

Textual Amendments

F3 Words in s. 32 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C8 S. 32 applied (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), **ss. 50(2), 71, 77(2)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F4 33 Applications to the court.

.....

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

- F5** S. 34 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#); s. 34 expressed to be repealed (S.) (*prosp.*) by [2000 asp 5](#), [ss. 76\(1\)\(2\), 77\(2\)](#), [Sch. 12 Pt. 1 para. 5\(4\)](#), **Sch. 13 Pt. 1** (with [ss. 58, 62, 75](#))

F⁴35 Procedure in court.

.....

Textual Amendments

- F4** Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 5\(4\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456](#), [art. 2](#)

F⁴36 Heirs to be called in proceedings under this Act.

.....

Textual Amendments

- F4** Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 5\(4\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456](#), [art. 2](#)

F⁴37 Excambions under the Act 6 & 7 W. 4. c. 42 may be carried through under the forms of this Act.

.....

Textual Amendments

- F4** Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 5\(4\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456](#), [art. 2](#)

F⁴38 Instruments of disentail to be final.

.....

Textual Amendments

- F4** Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 5\(4\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456](#), [art. 2](#)

F⁴39 In future entail, irritant and resolute clauses implied in warrant to record.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F⁴40 Irritancy not to affect conveyances or securities.

.....

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

41 **F⁶**

Textual Amendments

F6 S. 41 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), s. 1, **Sch. Pt. V**; s. 41 expressed to be repealed (S.) (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2), Sch. 12 Pt. 1 para. 5(4), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

F⁴42 Proceedings may be taken under this Act, though entail not recorded, &c.

.....

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F⁴43 Entail defective in any one prohibition to be bad as to all. Scots Act 1685 c. 26.

.....

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F⁴44 Instruments of disentail may be registered in the registers of sasines.

.....

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F4}45 No irritancy or forfeiture to be incurred for anything done under this Act.

.....

Textual Amendments

F4 Ss. 33-45 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

46 ^{F7}

Textual Amendments

F7 Ss. 46, 53 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

47 Act not to be defeated by trusts;

Where any [^{F8}land] in Scotland shall, by virtue of any trust disposition or settlement or other deed of trust whatsoever ^{F9}..., be in the lawful possession, either directly or through any trustees for his behoof, of a party of full age born after the date of such trust disposition or settlement or other deed of trust, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such trust disposition or settlement or other deed of trust, or by which the same or the interest of such party therein may bear to be qualified, such prohibitions, conditions, restrictions, or limitations being of the nature of prohibitions, conditions, restrictions, or limitations of entail, or intended to regulate the succession of such party, or to limit, restrict, or abridge his possession or enjoyment of such [^{F8}land] in favour of any future heir, and such party shall be deemed and taken to be the ^{F10}... proprietor of such [^{F8}land], and it shall be lawful to such party to make application by way of summary petition to the Court of Session, setting forth the facts, and referring to this Act, and craving the court to pronounce an act and decree declaring him ^{F10}... proprietor of such [^{F8}land], and unaffected by any such conditions, provisions, restrictions, or limitations; and the court shall proceed in such petition as may be just, and shall have power to pronounce an act and decree declaring such party to be ^{F10}... proprietor of such [^{F8}land], and unaffected as aforesaid; and such act and decree may be recorded in the register of sasines, and being so recorded shall have all the operation and effect of the most formal and valid disposition to such party, and his heirs and assignees whomsoever, of such [^{F11}land] duly recorded: Provided always, that the rights of ^{F12}... all parties holding [^{F13}securities over such land], and all rights which are held independently of such trust disposition or settlement or other deed of trust, shall be as they are hereby reserved entire.

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

Textual Amendments

- F8** Words in s. 47 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(a)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F9** Words in s. 47 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(b)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F10** Words in s. 47 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(c)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F11** Words in s. 47 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(d)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F12** Words in s. 47 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(e)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F13** Words in s. 47 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(5)(f)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C9** S. 47 applied by Entail (Scotland) Act 1914 (c. 43), **s. 8**

48 or by life-rents.

[^{F14}Where any land] in Scotland shall, by virtue of any deed ^{F15}..., be held in liferent by a party of full age born after the date of such deed, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such deed, or by which the same or the interest of such party therein may bear to be qualified, and such party shall be deemed and taken to be the ^{F15}... proprietor of [^{F16}such land] , and it shall be lawful to such party to obtain and record an act and decree of the Court of Session in the like form and manner and in the like terms and with the like operation and effect as is herein-before provided with reference to an act and decree of the said court in the case of deeds of trust: Provided always, that the rights of ^{F15}... all parties holding securities [^{F17}over such land] , and all rights which shall be held independently of the deed by which such liferent is constituted, shall be as they are hereby reserved entire.

Textual Amendments

- F14** Words in s. 48 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(6)(a)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F15** Words in s. 48 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(6)(b)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F16** Words in s. 48 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(6)(c)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F17** Words in s. 48 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 5(6)(d)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C10** S. 48 applied by Entail (Scotland) Act 1914 (c. 43), **s. 8**; excluded by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), **s. 18(4)**

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

49 or by leases.

Where any land ^{F18} ... in Scotland shall, by virtue of any tack, assignation of tack, or other deed or writing ^{F18} ..., be held in lease, either directly or through trustees for his behoof, by a party of full age born after the date of such tack, assignation of tack, or other deed or writing, such party shall not be in any way affected by any prohibitions, conditions, restrictions, or limitations which may be contained in such tack, assignation of tack, or other deed or writing, or by which the same or the interest of such party therein may be qualified, such prohibitions, conditions, restrictions, or limitations being of the nature of prohibitions, conditions, restrictions, or limitations of entail, or intended to regulate the succession of such party, or to limit, restrict, or abridge his possession or enjoyment of such land ^{F18} ... in favour of any future heir: Provided always, that it shall be lawful to the proprietor of whom such lease is held to enforce any prohibitions, conditions, restrictions, or limitations contained in such tack, assignation of tack, or other deed or writing which shall have been inserted therein for the bona fide purpose of protecting the just rights and interests of such proprietor, in so far as such enforcement may be necessary in order to such protection.

Textual Amendments

F18 Words in s. 49 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(7), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C11 S. 49 applied by [Entail \(Scotland\) Act 1914 \(c. 43\)](#), s. 8

^{F19}50 Consents to be in writing and to be irrevocable.

.....

Textual Amendments

F19 S. 50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(8), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F20}51 Court may make acts of sederunt.

.....

Textual Amendments

F20 S. 51 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 5(8), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[^{F21}52 Interpretation

In this Act, the word “land” shall include all heritages.]

Status: Point in time view as at 28/11/2004.

*Changes to legislation: There are currently no known outstanding effects
for the Entail Amendment Act 1848. (See end of Document for details)*

Textual Amendments

F21 S. 52 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 5\(9\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

53

..... **F22**

Textual Amendments

F22 Ss. 46, 53 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Entail Amendment Act 1848. (See end of Document for details)

F²³SCHEDULE
TO WHICH THE
FOREGOING ACT REFERS

Textual Amendments

F23 Sch. repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 5(10), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F²³

Status:

Point in time view as at 28/11/2004.

Changes to legislation:

There are currently no known outstanding effects for the Entail Amendment Act 1848.