



Registration of Leases (Scotland) Act 1857

1857 CHAPTER 26 20 and 21 Vict

3 Assignations of [^{F1}registered or] recorded leases.

[^{F2}(1) When any such lease as aforesaid shall have been [^{F3}registered or] recorded as herein provided, it shall be lawful for the party in right of such lease, and whose right is [^{F4}registered or] recorded in terms of this Act, but in accordance always with the conditions and stipulations of such lease, and not otherwise, to assign the same, in whole or in part, by assignation, in the form as nearly as may be of the Schedule [^{F5}(ZA.) or, as the case may be,] (A.) to this Act annexed; and the [^{F6}registering or] recording of such assignation shall fully and effectually vest the assignee with the right of the granter thereof in and to such lease to the extent assigned: Provided always, that such assignation shall be without prejudice to the right of hypothec, or other rights of the landlord.

(2) Notwithstanding—

- (a) any restriction imposed by subsection (1) above on the power under that subsection to assign such a lease; or
- (b) any rule of law to the contrary,

it shall be, and shall be deemed always to have been, competent in an assignation under this section

[to impose conditions and make stipulations [^{F8}or
^{F7}(i)]

(ii) to import such conditions and stipulations,]

which, upon the ^{F9}... registration under the Land Registration (Scotland) Act 1979 of the assignee's interest [^{F10}or the registration of such assignation under the Land Registration etc. (Scotland) Act 2012 (asp 5) or the recording of such assignation], shall be as effectual against any singular successor of the assignee in the subjects assigned as if such assignee had been a grantee of the lease [^{F11}and, as the case may be, the grantee's interest or the lease had been so registered or the lease had been duly recorded.]

[Any person entitled to grant an assignation under this section may—

- ^{F12}(2A) (a) execute a deed containing such conditions, or stipulations, as may be specified in an assignation under subsection (2) above; and

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- (b) register such conditions and stipulations in the Land Register of Scotland or, as the case may be, record the deed in the Register of Sasines, and, subject to subsection (2C) below, on such registration or, as the case may be, recording such conditions and stipulations shall be effectual.
- (2B) “Import” in subsection (2)(ii) above means to import into itself from a deed of conditions (“deed of conditions” having the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) the terms of the conditions or stipulations; and importation in or as nearly as may be in the form set out in schedule 1 to that Act (but with the modification that for the references in that form to the terms of the title conditions there are substituted references to the terms of the conditions or stipulations) shall suffice in that regard.
- (2C) Where ^{F13} ... a deed provides for the postponement of effectiveness of any conditions or, as the case may be, stipulations to—
- (a) a date specified in that deed (the specification being of a fixed date and not, for example, of a date determinable by reference to the occurrence of an event); or
 - (b) the date of—
 - (i) registration ^{F14} ...; or
 - (ii) recording of,
 some other deed so specified,
- the conditions, or stipulations, shall take effect in accordance with such provision.]
- (3) Nothing in subsection (2) [^{F15}or (2A)] above makes effectual against any successor of the assignee any obligation of periodical payment other than a payment—
- (a) of rent or of an apportionment of rent;
 - (b) in defrayal of a contribution towards some continuing cost related to the lands and heritages subject to the lease assigned; or
 - (c) under a heritable security.
- (4) A provision in an assignation [^{F16}, or as the case may be in a deed such as is mentioned in subsection (2A) above,] which purports to make effectual against any successor of the assignee any obligation of periodic payment other than one specified in paragraphs (a) to (c) of subsection (3) above shall not render the deed void or unenforceable, but the assignation [^{F17}, or as the case may be the deed,] shall have, and shall be deemed always to have had, effect only to the extent (if any) that it would have had effect if it had not imposed such obligation.
- (5) ^{F18} ...]

Textual Amendments

- F1** Words in s. 3 title inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 7](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2
- F2** S. 3 renumbered as s. 3(1) and s. 3(2)–(5) inserted thereafter by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 75:2\)](#), s. 3
- F3** Words in s. 3(1) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 6\(a\)\(i\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2
- F4** Words in s. 3(1) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 6\(a\)\(ii\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2
- F5** Words in s. 3(1) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 6\(a\)\(iii\)](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2

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- F6** Words in s. 3(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(a)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F7** S. 3(2)(i): words in s. 3(2) renumbered as s. 3(2)(i) (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(2)(a)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F8** S. 3(2)(ii) and word inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(2)(b)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F9** Words in s. 3(2) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F10** Words in s. 3(2) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F11** Words in s. 3(2) substituted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F12** S. 3(2A)-(2C) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(3)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F13** Words in s. 3(2C) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(c)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F14** Words in s. 3(2C) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(c)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F15** Words in s. 3(3) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(4)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F16** Words in s. 3(4) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(5)(a)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F17** Words in s. 3(4) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(5)(b)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F18** S. 3(5) repealed (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 15** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

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