



Land Registers (Scotland) Act 1868

1868 CHAPTER 64 31 and 32 Vict

An Act to improve the system of registration of writs relating to heritable property in Scotland. [31st July 1868]

Modifications etc. (not altering text)

- C1 Functions of Keeper of the General Register of Sasines now exercisable by Keeper of the Registers of Scotland: [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\), s. 5](#) and [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\), s. 1\(2\)](#)
- C2 Functions of Lord Clerk Register as Keeper of the Records, Registers and Rolls for Scotland now exercisable by Keeper of the Registers of Scotland: [Lord Clerk Register \(Scotland\) Act 1879 \(c. 44\), s. 6](#), [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\), s. 5](#) and [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\), s. 1\(2\)](#)
- C3 Preamble omitted under authority of [Statute Law Revision Act 1893 \(c. 14\)](#)
- C4 Words of enactment and certain other words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#) and [Statute Law Revision Act 1898 \(c. 22\)](#)
- C5 [Registration Act 1617 \(c. 16\)](#) cited or referred to by its short title under authority of [Statute Law Revision Act 1893 \(c. 14\), s. 3](#)

Commencement Information

- I1 Act wholly in force at Royal Assent

1 Short title.

This Act may be cited for all purposes as the Land Registers (Scotland) Act, 1868.

2 Interpretation of terms. Scots Act 1617 c. 16.

The term “register of sasines,” as used in this Act, shall be held as applying to the registers directed to be kept by the Registration Act 1617, for the registration of sasines, reversions, and other writs directed to be recorded therein by that Act or by any subsequent Act of Parliament; and the word “writ,” as used in this Act, shall apply to and include all deeds and writings which have heretofore been in the practice of

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being recorded in these registers, or which may under the provisions of this Act be recorded in the general register of sasines.

3 In general register of sasines, writs of each county to be kept separate.

The general register of sasines for Scotland shall be so kept that the writs applicable to each county shall be entered in a separate series of presentment books, and the writs shall be minuted in a separate series of minute books, and engrossed in a separate series of register volumes, in the order of presentment, and where any writ shall contain land in more than one county such writ shall be entered by the ingiver in the presentment book of such of these counties as may be specified in the warrant of registration hereinafter provided for, and shall be minuted in the minute book of such of these counties or county as are specified in said warrant, and shall be engrossed at length in the division of the register applicable to one only of the said counties; and a memorandum shall be entered in each division of the register applicable to the other counties or county in the presentment book of which it is entered as aforesaid, setting forth the volume of the register and the folio or folios of such volume in which such engrossment is made; and such memorandum shall be deemed to be equivalent to full engrossment of such writ in the division of the register wherein such memorandum shall be entered as aforesaid: For the purposes of this Act, the barony and regality of Glasgow, and also the stewartry of Kirkcudbright, shall each be treated as a county.

4 F1

Textual Amendments
F1 S. 4 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

5 Competent to record writs in other county or counties to which they refer by new warrant.

Provided always, that where any writ containing lands or heritages in more than one county shall not have had a warrant of registration endorsed or written thereon applicable to all the counties to which it applies, the registration of such writ shall, notwithstanding, as regards the county or counties mentioned in the warrant, and in the minute books and register volumes of which county or counties it has been recorded, or a memorandum thereof entered, be effectual; and it shall be competent afterwards to present such writ by a new warrant of registration thereon, and to minute and register such writ in the register of any other county or counties to which such writ applies in terms of such new warrant; and in the case of such subsequent registration it shall not be necessary to engross the writ at length in the division of the register applicable to such county or counties, but the same may be effected by the insertion of a memorandum in such division of the register in the manner herein-before provided for, and such subsequent registration shall be effectual as regards the county or counties to which such writ applies, and to which such new warrant is applicable, of and from the date of such subsequent registration.

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6 Provision for writs transmitted by post to general register of sasines.

Where any writ shall be transmitted by post for registration in the general register of sasines the keeper of said register shall, upon the receipt of such writ, cause the same to be acknowledged to the sender, and to be presented in terms of the warrant of registration thereon by a clerk in his office to be appointed by him for that purpose, and who shall be held as the ingiver of the writ; and such clerk shall [^{F2} . . . ^{F3} in the presentment book . . . ^{F3} enter] the name of the sender; and such writ shall be recorded in the same manner as any other writ presented for registration; and on the writ being ready for delivery intimation to that effect shall be made by post to the sender, accompanied by a note of fees, and on receipt of the fees and postage, and a request to that effect, the keeper shall transmit the writs to the sender by post; and where two or more writs . . . ^{F3} shall be received by the keeper at the same time, the entries thereof in the presentment book and minute book shall be of the same year, month, [^{F4} and day] , and such writs shall be deemed and taken to be presented and registered contemporaneously.

Textual Amendments

- F2** Words substituted by [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\), s. 3](#)
- F3** Words repealed by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), Sch. 4](#)
- F4** Words substituted by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), Sch. 1 para. 1](#)

7 Registration how to be made, &c.

Registration of writs in the general register of sasines shall, except in so far as altered by the provisions of this Act, continue to be made in conformity with the practice heretofore in use; and no error or omission in any presentment book of the general register of sasines to be kept as aforesaid shall invalidate, or in any way affect injuriously, the registration of any writ recorded in said register.

8 Particular registers of sasines abolished.

The whole particular registers of sasines in Scotland shall be discontinued . . . ^{F5} and all writs which, previous to the discontinuance of the said particular registers respectively, might competently have been presented for registration therein, shall after said discontinuance be registrable only in the general register of sasines; and registration in the general register of sasines as herein-before directed to be kept for separate counties shall have all the force and effect previously attached to registration in such particular registers of sasines respectively.

Textual Amendments

- F5** Words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

9 Printed abridgments, &c., and indexes, to be prepared contemporaneously with record.

Printed abridgments and printed indexes, both of persons and of places, applicable to each county in Scotland, in the form heretofore in use in the General Register House, or in such other form as may from time to time be prescribed by the Lord Clerk Register,

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shall, from and after the discontinuance of all the particular registers of sasines directed to be discontinued as aforesaid, be prepared under the superintendence of the keeper of the general register of sasines, and as nearly as possible contemporaneously with the minute books and volumes of the register; and such indexes shall be consolidated from time to time for such periods as may be deemed expedient: Provided always, that it shall be lawful at any time for the Lord Clerk Register, if he shall think fit, to direct that abridgments shall cease to be prepared separately from the minutes, and in that case, and in lieu of the preparation and printing of said abridgments, the minutes shall be printed under the superintendence of the keeper of the general register of sasines, in lieu of printing such abridgments.

10 F6

Textual Amendments
F6 Ss. 10, 20, 24, repealed by Public Registers and Records (Scotland) Act 1948 (c. 57), Sch. Pt. II

11 F7

Textual Amendments
F7 Ss. 11, 22, 28, Sch.(A) Nos. 1,2 repealed by Statute Law Revision Act 1893 (c. 14)

12 Registration in general register of sasines equivalent in certain cases to registration in the books of council and session.

It shall not be necessary to register in the books of council and session for the purpose of preservation, or of preservation and execution, any writ competent to be registered in the general register of sasines, and which shall have been so registered, and such writ, being registered in the said register of sasines, shall be held to be registered also in the books of council and session for preservation, or for preservation and execution, as the case may be: Provided such writ, when presented for registration in the said register of sasines, shall, in the warrant of registration prescribed by this Act, have an addition, specifying that the writ is to be registered for preservation, or for preservation and execution, as well as for publication, in or as nearly as may be in the form of schedule (A.) No. 3, hereto annexed; and the writ, with such warrant, being so registered in the said register of sasines, shall not be redelivered to the ingiver, but an extract only (containing as part of said extract, where the writ is registered for execution, a warrant for execution,) shall be delivered, which extract may be issued without abiding the actual booking in the register of sasines and shall be in the form, as nearly as may be, of the Schedule (B.) to this Act annexed, and shall be signed on each page by the keeper of the register of sasines, or a deputy duly commissioned by him to that effect; and all writs so presented to be registered for preservation and execution shall, after having been engrossed in the general register of sasines in terms of law, be periodically transmitted by the keeper of the register of sasines to the Lord Clerk Register or his deputies, through the office of the keeper of the register of deeds and probative writs and protests in the books of council and session, or otherwise, as the Lord Clerk Register shall prescribe, and shall be indexed, either separately, or along with other writs registered in the books of council and session, as the Lord Clerk

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Register may direct; and such registration in the general register of sasines shall have all the legal effects of registration in the books of council and session for preservation, or for preservation and execution, as the case may be, as well as of registration in the general register of sasines: Provided always, that no writ shall be held to be registered for the purpose of execution which does not contain a procuratory for registration, or clause of consent to registration, for the purpose of execution, in the body of the writ; and extracts as aforesaid, one or more, of all writs so registered in the said register of sasines may be issued at any time by the keeper of the register of sasines, or, after transmission as aforesaid, by the deputy keeper of the records, or by any one having their authority respectively; and all such extracts, and the warrants of execution therein contained, shall have all the like force and effect as any extract from the books of council and session, or as any warrant of execution contained in or appended to such extract, or as any extract from the general register of sasines, according to the existing law and practice; and such extracts, in terms of this Act, shall be equivalent to the registered writs themselves, except where any writ so registered shall be offered to be improven; and all extracts issued in terms of this Act shall have upon them, in such form as may from time to time be prescribed by the Lord Clerk Register, a certificate or marking indicating the cumulo amount of stamp duty paid on the principal writ recorded and retained for preservation.

Modifications etc. (not altering text)

C6 S. 12 amended by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 10(7)

13 No higher fees to be chargeable for writs registered for preservation and execution as well as publication.

No fees shall be chargeable at the office of the keeper of the register of deeds and probative writs and protests in the books of council and session in respect of the registration of any writs in the general register of sasines for preservation, or for preservation and execution, as well as for publication, in terms of this Act; and the fees to be charged in respect thereof, and of the extract given out at the time of registration at the office of the general register of sasines, shall be the same, with the addition only of any outlay for the writing and stamps of such extract, as would have been chargeable if the writ had been registered for publication only; and the salaries of the principal keeper of the register of deeds and probative writs and protests in the books of council and session, and of the assistant keepers, shall be defrayed out of funds to be provided by Parliament for the purpose; and the fees of the department shall be accounted for in such manner as the Treasury shall direct.

14 Registered writs to be authenticated.

The certificate of registration on every writ that shall be registered in the general register of sasines, and redelivered to the ingiver, shall be signed by the keeper of said register, or a deputy duly commissioned by him to that effect; and no further signature in order to or in token of such registration shall be necessary to any writ presented for registration in the general register of sasines; but every folio of such writ shall, in token of such registration, be impressed with an office seal or stamp to be kept in the said general register of sasines.

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Modifications etc. (not altering text)

C7 S. 14 repealed retrospectively so far as it relates to the signing of certificates of registration by [Public Registers and Records \(Scotland\) Act 1950 \(c. 11\)](#), s. 1, [Sch.](#)

15 F8

Textual Amendments

F8 S. 15 repealed by [Prescription and Limitation \(Scotland\) Act 1973 \(c. 52, SIF 97\)](#), s. 16(2), [Sch. 5 Pt. I](#)

16 Particular register of inhibitions abolished.

The particular registers of inhibitions and interdictions throughout Scotland shall be discontinued, and all diligences, executions, and other writings at present appropriate to those registers, or any of them, shall be registrable only in the general register of inhibitions, which shall be the only competent register for the registration of inhibitions and interdictions; and no publication whatever of such diligences, executions, and other writings, other than registration in said general register of inhibitions, shall in future be necessary, but such registration shall for all purposes whatsoever have all the legal effect of the publication at present in use.

17 F9

Textual Amendments

F9 S. 17 repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

18 Particular registers of hornings, &c. not to be affected.

The particular registers of hornings and expired charges shall be continued as at the date of the passing of this Act: Provided always, that where any such register has been heretofore kept as a joint register of hornings and inhibitions, it shall cease to be a competent register for the registration of inhibitions.

19 Provision as to official searchers.

The Treasury shall have power, upon the application from time to time of the Lord Clerk Register, to regulate the number of official searchers of the records, and to grant to such searchers such remuneration out of funds to be provided by Parliament for that purpose as their lordships shall deem fit: Provided that nothing herein contained shall interfere with the right of parties or their agents to employ any other persons to search the records, or shall affect any liability legally attaching to such other persons, or to agents employing them respectively.

20 F10

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Textual Amendments

F10 Ss. 10, 20, 24, repealed by [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\)](#), **Sch. Pt. II**

21 Remuneration to sheriff clerks.

It shall be competent to the Treasury to pay to sheriff clerks reasonable allowances for duties discharged by them under this Act out of funds to be voted by Parliament for that purpose.

22 ^{F11}

Textual Amendments

F11 Ss. 11, 22, 28, **Sch.(A)** Nos. 1,2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

23 Responsibilities of keepers of particular registers to attach to keeper of general register.

The keeper of the general register of sasines shall, from and after the discontinuance of the particular registers, or any of them, be subject to such and the like responsibilities and liabilities for loss and damage by reason of neglects, omissions, or errors in the registration of writs in the general register of sasines as the keepers of the particular registers of sasines have hitherto been and now are subject to with reference to the registration of writs in such particular registers.

24 ^{F12}

Textual Amendments

F12 Ss. 10, 20, 24, repealed by [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\)](#), **Sch. Pt. II**

[^{F13}**25 Fees.**

The Secretary of State, with the consent of the Treasury, may from time to time by order made by statutory instrument fix fees payable in respect of registration or recording in any register under the management and control of the Keeper of the Registers of Scotland and in respect of the provision by the Keeper of searches, reports, certificates or other documents or copies of any document or of information from any such register; and the amount of the fees so fixed shall not be greater than is reasonably sufficient for defraying the expenses of the department of the Keeper, including the expenses of the improvement of the systems of such registration and recording.]

Subordinate Legislation Made

P1 [S. 25](#): s. 25 power exercised (10.09.1991) by [S.I.1991/2093](#)

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Textual Amendments

F13 S. 25 substituted by Land Registration (Scotland) Act 1979 (c. 33, SIF 31:3), s. 23

26 **F14**

Textual Amendments

F14 S. 26 repealed by Lord Clerk Register (Scotland) Act 1879 (c. 44), s. 1

27 **F15**

Textual Amendments

F15 S. 27 repealed by Burgh Registers (Scotland) Act 1926 (c. 50), s. 4, Sch. 2

28 **F16**

Textual Amendments

F16 Ss. 11, 22, 28, Sch.(A) Nos. 1,2 repealed by Statute Law Revision Act 1893 (c. 14)

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SCHEDULES

SCHEDULE (A.)

NO. 1. ^{F17}

Textual Amendments

F17 Ss. 11, 22, 28, Sch.(A) Nos. 1,2 repealed by Statute Law Revision Act 1893 (c. 14)

NO. 2. ^{F18}

Textual Amendments

F18 Ss. 11, 22, 28, Sch.(A) Nos. 1,2 repealed by Statute Law Revision Act 1893 (c. 14)

NO. 3

Warrants of Registration.

[^{F19}Register on behalf of the within named A.B. [*or on behalf of A.B. (designation)*] in the Register of the County of G. [(or in the Registers of the Counties of G.H. and J); . . . ^{F20}

Textual Amendments

F19 Forms of warrant of registration and notes substituted by Conveyancing (Scotland) Act 1924 (c. 27), s. 10(1), Sch. F

F20 Words repealed by Burgh Registers (Scotland) Act 1926 (c. 50), s. 4, Sch. 2

A.B.

or C.D., W.S. Edinburgh, agent.

or E. & F., W.S. Edinburgh, agents.

(or as the case may be).

Notes to Schedule F.

Note 1.—In the case of a Warrant of Registration written on a deed which is to be recorded in the Register of Sasines in terms of a clause of direction, add after the first word “Register” the words *in terms of the clause of direction herein contained*.

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