New Parishes (Scotland) Act 1844

1844 CHAPTER 44 7 and 8 Vict

11 Lands may be burdened for endowments.

It shall and may be lawful for any heir of entail in Scotland to burden the lands and estate of which he or she is in possession as heir of entail aforesaid, lying within any district to be marked out and designated as aforesaid, or to give security over the same for the annual payment out of the clear yearly rents and profits of the said lands and estate of any sum not exceeding three pounds per centum of such clear yearly rents and profits, after deducting all prior burdens and provisions, as the same shall be ascertained by an average of the five years immediately preceding such burden or security, and in no case exceeding the yearly sum of one hundred and twenty pounds, for the purpose of endowing or contributing to the endowment of such new parish as aforesaid; and also to burden such lands and estate, or give security over the same, for upholding in due repair the fabric of the church of such new parish, and the dwelling house and offices of the minister, or any of them; the sums to be expended in such repairs not exceeding in any one year one pound per centum on the amount of money originally expended in building or purchasing and completing such church, or upon the estimated value thereof when received and recognized as the church of such new parish, and one pound per centum on the amount of money originally expended in building or purchasing and completing such dwelling house and office, or upon the estimated value thereof; and such heir of entail shall not, by reason of such acting as aforesaid, be subject to nor incur any forfeiture or irritancy under any deed of entail by virtue of which he or she may hold such lands or estate, and such burdens and securities shall be as valid and effectual against such lands and estates as if the same had not been entailed: Provided always, that no such burden or security as aforesaid shall be effectual unless the heir of entail nearest in succession, of lawful age, and not under legal disability or incapacity, shall have consented thereto, which consent may be given judicially, or by letter or other writing under the hand of such heir of entail nearest in succession: Provided also, that if such heir of entail nearest in succession as aforesaid shall be an heir of the body of the heir of entail in possession who intends to create such burden or security, then such heir of entail in possession shall, three months at least before creating the same, give notice of such his intention, in writing, to the heir of entail next entitled to succeed to the said estate after the heirs of his own body, if within Great Britain or Ireland, and, if the heir next entitled to succeed is not within Great Britain or Ireland, to his nearest male relation by the father, of lawful age,

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *New Parishes (Scotland) Act 1844, Section 11 is up to date with all changes known to be in force on or before 07 May 2024. 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. (See end of Document for details)*

or to his known factor or attorney; and before any such burden or security as aforesaid shall be created evidence shall be produced, to the satisfaction of the said lords of council and session, that such consent as aforesaid, and such notice as aforesaid, where required, have been given, and that the means of public worship for the inhabitants of such district are wanting, and cannot be adequately provided unless the power hereby given of burdening the entailed estate shall be exercised to the extent proposed.

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