



Infertment Act 1845

1845 CHAPTER 35 8 and 9 Vict

An Act to simplify the form and diminish the expence of obtaining infertment in heritable property in Scotland. [21st July 1845]

Textual Amendments

F1 Act: repealed (*prosp.*) by [2000 asp 5, ss. 76\(2\), 77\(2\)](#), [Sch. 13 Pt. 1](#) (with [ss. 58, 62, 75](#))

Modifications etc. (not altering text)

- C1** Short title “The Infertment Act 1845” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2** Preamble omitted under authority of [Statute Law Revision Act 1891 \(c. 67\)](#)
- C3** Words of enactment repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)

1 How sasine to be given in future.

From and after the first day of October in the present year one thousand eight hundred and forty-five it shall not be necessary to proceed to the lands in which sasine is to be given, or to perform any Act of infertment thereon, but sasine shall be effectually given therein and infertment obtained by producing to a notary public the warrants of sasine and relative writs, as now in use to be produced at taking infertment, and by expeding and recording in the general register of sasines . . . ^{F2} in manner herein-after directed, an instrument of sasine, setting forth that sasine had been given in the said lands, and subscribed by the said notary public and witnesses, according to the form and as nearly as may be in the terms of schedule (B.) hereto annexed; and such form of infertment shall be effectual, whether the lands lie contiguous or discontiguous, or are held by the same or by different titles, or of one or more superiors, or whether the deed entitling the party to obtain infertment be dated prior or subsequent to the present Act, or whether the precept of sasine therein be in the form heretofore in use, or in the form authorized by the present Act.

Textual Amendments

F2 Words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

Status: Point in time view as at 01/08/1995.

Changes to legislation: Infefiment Act 1845 is up to date with all changes known to be in force on or before 21 July 2023. 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)

2 Instruments of sasine to be entered and recorded.

From and after the said first day of October every such instrument of sasine shall be recorded in manner heretofore in use with regard to instruments of sasine, and the keepers of the registers of sasines are hereby required to receive and register the same accordingly; and such instrument of sasine, being so recorded, shall in all respects have the same effect as if sasine had been taken and an instrument of sasine duly recorded according to the law and practice heretofore in use.

3 May be recorded at any time, but date of presentment to be date of infefiment.

From and after the said first day of October every such instrument of sasine may be competently and effectually recorded at any time during the life of the party in whose favour such instrument has been expedite, but the date of presentment and entry set forth on any such instrument by the keeper of the record shall be taken to be the date of the instrument of sasine and infefiment.

4 In case of error or defect, another instrument may be recorded.

In case of any error or defect in any such instrument of sasine, or in the recording thereof, it shall be competent of new to make and record an instrument of sasine, which shall have effect from the date of recording thereof, as if no previous instrument or instruments had been made or recorded.

5 Forms of the precept and instrument of sasine.

In all deeds containing a precept of sasine such precept may be in the form and as nearly as may be in the terms of the schedule (A.) hereto annexed, and the instrument of sasine on any such deed shall be in the form and as nearly as may be in the terms of the said schedule (B.) hereto annexed, which precepts and instruments of sasine respectively shall be as valid and effectual as the precepts and instruments of sasine heretofore in use.

6 F3

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Textual Amendments
F3 S. 6 repealed by Titles to Land Consolidation (Scotland) Act 1868 (c. 101), s. 4, Sch. (A.)

7—9. F4

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Textual Amendments
F4 Ss. 7—9 repealed by Statute Law Revision Act 1892 (c. 19)

Status: Point in time view as at 01/08/1995.

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10 Interpretation of Act.

In the construction of this Act the words “notary public” shall be held to mean a notary public in Scotland duly admitted and practising there; the word “deed” shall be held to include any warrant or document upon which sasine may follow; and the word “lands,” or the words “heritable property,” shall be held to include houses, fishings, mills, minerals, patronages, teinds, and in general all heritable subjects or rights in which infeftment may be taken; and all words in the singular number shall be held to include a plurality of persons or things; and in general this Act shall be construed in the most liberal manner, so as to accomplish the objects thereby intended.

11 F5

Textual Amendments

F5 S. 11 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

Status: Point in time view as at 01/08/1995.

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SCHEDULES REFERRED TO IN THE FOREGOING ACT

SCHEDULE (A.)

FORM OF PRECEPT OF SASINE

Moreover I desire any notary public to whom these presents may be presented to give to the said A.B. or his foresaids sasine [or life-rent sasine, or sasine in life-rent and fee respectively, as the case may be,] of the lands and others above disponed, [if the deed be granted under the burden of a real lien or servitude, or any other incumbrance, condition, or qualification of the right, or under redemption, then there will be added here, “but always under the burden of the real lien,” &c. (as the case may be) before specified]. [^{F6}Testing clause+..

Textual Amendments

F6 Words in [Sch.\(A\)](#) substituted (S.) (1.8.1995) by [1995 c. 7, ss. 14\(1\), 15\(2\), Sch. 4, para. 3](#) (with [s. 14\(3\)](#))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

SCHEDULE (B.)

FORM OF INSTRUMENT OF SASINE

At there was, by or on behalf of A.B. of Z., esquire, presented to me, notary public subscribing, a disposition [or other deed, or an extract of a deed (as the case may be)], granted by C.D. of Y., esquire, and bearing date as in the precept of sasine hereinafter inserted, [here describe also any connecting deed or writ, or extract thereof, in virtue of which the sasine is to be given to A.B.] by which disposition the said C.D. sold, alienated, and disponed to the said A.B. [or, to E.F. (as the case may be)] and his heirs and assignees, [here insert the destination, if any,] heritably and irredeemably, [or redeemably, or in life-rent, or otherwise, (as the case may be,)] all and whole [here insert the description of the subjects conveyed; and if the disposition by C.D. was not to A.B. himself, but is vested in him as assignee, heir, or adjudger, or otherwise, in whole or in part, state the successive transferences, and the way in which he has right thereto], which disposition contains an obligation to infeft [here state whether a se or de se, or both or either (as the case may be),] and a precept of sasine in the following terms [here insert the precept, which may be either according to the form at present in use, or according to the abbreviated form in schedule (A.)], in virtue of which precept I hereby give sasine, or life-rent sasine, or sasine in life-rent and fee respectively] to the said A.B. of the lands and others above described. [If the precept of sasine contains a reference to a real burden, or to any conditions or qualifications of the right, or to a power of redemption, then add, “but always under the burden of the real right, &c. before specified.”]

[^{F7}Testing clause+.

Status: *Point in time view as at 01/08/1995.*

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Textual Amendments

F7 Words in [Sch.\(B\)](#) substituted (S.) (1.8.1995) by [1995 c. 7, ss. 14\(1\), 15\(2\), Sch. 4, para. 3](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

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