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Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, Paragraph 30 is up to date with all changes known to be in force on or before 27 September 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)

SCHEDULE 12 MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35)

30 (1) The Conveyancing and Feudal Reform (Scotland) Act 1970 shall be amended in accordance with this paragraph.

(2) In section 1 (variation and discharge of land obligations)—

(a) in subsection (2)—

(i) after the word “is”, where it first occurs, insert “ — (a) ”;

(ii) for the words “an interest in land” substitute “ land or of a real right in land ”;

(iii) for the words “another interest in that land, or of an interest in other land” substitute “ that or other land, or of a real right in that or other land ”; and

(iv) at the end of the first paragraph insert—

“(b) a conservation burden; or

(c) a maritime burden.”;

(b) in each of subsections (3) and (4), for the words “interest in land” substitute “ land or real right in land ”;

(c) after subsection (6) add—

“(7) In subsection (2) above “conservation burden” and “maritime burden” have the meanings given respectively by sections 27(1) and 60(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).”.

(3) In section 2 (provisions supplementary to section 1), in subsection (6)—

(a) in the definition of “benefited proprietor” and of “burdened proprietor”—

(i) after the words “land obligation” insert “such as is mentioned in—

(a) subsection (2)(a) of that section”;

(ii) for the words “an interest”, in each of the four places where they occur, substitute “ land or of a real right ”;

(iii) after “enforce the obligation;” insert—

“(b) subsection (2)(b) of that section, means the conservation body (within the meaning of Part 4 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5)) having the right to the conservation burden; and

(c) subsection (2)(c) of that section, means the Crown.”;

and

(iv) for the words “that interest” substitute “ that land or real right ”;

(b) the definition of “interest in land” shall cease to have effect; and

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- (c) after the definition of “land obligation” insert the following definitions—
- ““proprietor”, in any reference to the proprietor “of a real right in land”, means the holder of such right; and
- “real right in land” means any such right, other than ownership, which is capable of being held separately and to which a title may be recorded in the Register of Sasines.”,
- and subsection (7) shall cease to have effect.
- (4) Sections 3 to 6 (allocation of feuduties and ground annuals) shall cease to have effect.
- (5) In section 7 (provisions for contracting out of sections 1 to 6 to be void) for the words “1 to 6” substitute “ 1 and 2 ”.
- (6) In section 9 (which introduces the form of heritable security known as a standard security)—
- (a) in subsection (2), for the words “interest in land” substitute “ land or real right in land, ”;
- (b) in subsection (3), for the words “an interest” substitute “ land or a real right ”;
- (c) in subsection (4), for the words “of an interest” substitute “ of land or of a real right ”; and
- (d) in subsection (8)—
- (i) in paragraph (a), for the word “interest”, in both places where it occurs, substitute “ land or real right ”;
- (ii) in paragraph (b), for the definition of “interest in land” substitute—
- ““real right in land” has the same meaning as it has for the purposes of sections 1 and 2 of this Act;”;
- and
- (iii) in paragraph (c), the words “feuduty, ground annual,” shall cease to have effect.
- (7) In section 10(2) (clause of warrandice to import absolute warrandice), for the word “interest” substitute “ land or real right ”.
- (8) In section 11(1) (effect of recorded standard security), for the words from “the interest” to “a security” substitute “ in the grantee a real right in security ”.
- (9) In section 12 (standard security may be granted by person uninfert)—
- (a) in subsection (1)—
- (i) for the words “an interest” substitute “ land or a real right ”;
- (ii) the words “having right to that interest, but” shall cease to have effect; and
- (iii) for the word “interest”, where it last occurs, substitute “ land or real right ”;
- (b) in subsection (2)—
- (i) for the word “interest” substitute “ land or real right in land ”; and
- (ii) for the words “last infert” substitute “ having the last recorded title ”.
- (10) In section 13(1) (ranking of standard securities), for the words “interest in land or any part thereof, or of the subsequent assignation or conveyance of that interest”

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substitute “ land or real right in land or over any part thereof, or of the subsequent assignation or conveyance of that land or real right, ”.

- (11) In section 15(1) (restriction of standard security)—
- (a) for the word “interest”, where it first occurs, substitute “ land or real right ”; and
 - (b) for the words from “to the interest” to “and the interest in land” substitute “ to the land or real right contained in the standard security other than the part of that land or real right disburdened by the deed; and the land or real right ”.
- (12) In section 16 (variation of standard security)—
- (a) in each of subsections (1) and (2), for the word “interest” substitute “ land or real right ”; and
 - (b) in subsection (4), for the words “interest in land, or” substitute “ land or real right in land, or over ”.
- (13) In section 17 (discharge of standard security), for the word “interest” substitute “ land or real right ”.
- (14) In section 18(3) (redemption of standard security), for the word “interest” substitute “ land or real right ”.
- (15) In section 19 (calling-up of standard security)—
- (a) in subsection (2), for the words “last infeft in” substitute “ having the last recorded title to ”; and
 - (b) in subsection (3), for the words—
 - (i) “last infeft in” substitute “ having the last recorded title to ”; and
 - (ii) “last infeft have” substitute “ having the last recorded title have ”.
- (16) In section 30 (interpretation)—
- (a) in subsection (1), for the definition of “interest in land” substitute—

““real right in land” has the meaning assigned to it by the said section 9(8);”;

and
 - (b) in subsection (2), the definition of “infefit” shall cease to have effect.
- (17) Sections 33 (form of notice calling-up heritable security), 34 (amendment of section 34 of Conveyancing (Scotland) Act 1924), 35 (power of creditor in bond and disposition in security to sell to include power to sell by private bargain) and 39 (amendment of section 8 of Heritable Securities (Scotland) Act 1894) shall cease to have effect.
- (18) In section 41(1) (restriction on effect of reduction of certain discharges of securities)—
- (a) for the words “to any subsequent interest in the land, acquired” substitute “ who subsequently acquires the land or a real right in or over it ”; and
 - (b) the words “of the interest” shall cease to have effect.
- (19) In section 43(1) (interpretation), the definition of “the Act of 1894” shall cease to have effect.
- (20) Section 49 (abolition of heritor’s right of pre-emption of glebe) shall cease to have effect.

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- (21) In section 51 (application to the Crown), for the words “held of the Crown and of” substitute “ owned by the Crown or by ”.
- (22) In Schedule 1 (land obligations not subject to variation or discharge under section 1 of Act), in paragraph 1, the words “feuduty, ground annual,” and “skat, dry multure, teind, stipend, standard charge” shall cease to have effect.
- (23) In the Notes to Schedule 2 (which relates to forms of standard security)—
- (a) for note 1 substitute—
- “*Note 1.*—The security subjects shall be described sufficiently to identify them; but this note is without prejudice to any additional requirement imposed as respects any register.
- ”
- (b) in note 2—
- (i) the words “*ground annual or*” shall cease to have effect; and
- (ii) for the word “infefment” substitute “ recorded title ”; and
- (c) in note 3—
- (i) for the words “has been infeft in” substitute “ has a recorded title to ”;
- (ii) for the words “has not previously been infeft in” substitute “ does not have a recorded title to ”;
- (iii) the words “*ground annual or*” shall cease to have effect;
- (iv) for the words “last infeft in” substitute “ who last had a recorded title to ”; and
- (v) for the word “infefment” substitute “ recorded title ”.
- (24) In Schedule 3 (the standard conditions), in condition 10(3), the words “feuduties, ground annuals or, as the case may be,” shall cease to have effect.
- (25) In the Notes to Schedule 4 (which relates to forms of deeds of assignation and of restriction etc.), in note 3, for the words “infefment upon a standard security has been taken” substitute “ title to a standard security has been completed ”.
- (26) In schedule 8 (excluded enactments), paragraphs 2, 3, 7 to 14, 16 and 17, 18 to 22, 24 and 26 to 30 shall cease to have effect.

Commencement Information

- II** Sch. 12 para. 30 wholly in force (so far as unrepealed) at 28.11.2004; Sch. 12 para. 30(23)(a) in force at Royal Assent, see s. 77(1)(b)(2)(a); Sch. 12 para. 30 otherwise in force (so far as unrepealed) at 28.11.2004 by s. 71, S.S.I. 2003/456, art. 2

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