

SCHEDULE 12 MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

Titles to Land Consolidation (Scotland) Act 1868 (c. 101)

- 8 (1) The Titles to Land Consolidation (Scotland) Act 1868 shall be amended in accordance with this paragraph.
- (2) In section 3 (interpretation)—
- (a) for the words “The words “superior,” “vassal,” “grantor,”” substitute “The words “grantor,””;
 - (b) for the words “such superior, vassal, grantor” substitute “such grantor”;
 - (c) the words “The words “Crown writ” shall extend to and include all charters, precepts, and writs from Her Majesty, and from the Prince; and” shall cease to have effect;
 - (d) the definition of “charter” and of “writ” shall cease to have effect;
 - (e) in the definition of “deed” and of “conveyance”, the words “charters,” “whether containing a warrant or precept of sasine or not, and”, “feu contracts, contracts of ground annual,” “, whether such decrees contain warrant to infeft or precept of sasine or not,” and “, procuratories of resignation *an remanentiam*,” shall cease to have effect;
 - (f) the definition of “deed of entail” shall cease to have effect;
 - (g) in the definition of “instrument”, the words “authorized by this Act, or by any of the Acts hereby repealed,” shall cease to have effect; and
 - (h) the definition of “infeft” and “infeftment” shall cease to have effect.
- (3) Sections 4 (Acts repealed), 5 (in conveyances of land etc. not held burgage, certain clauses may be inserted in short forms), 6 (import of clause expressing manner of holding) and 7 (in conveyances of burgage property certain clauses may be inserted in given forms) shall cease to have effect.
- (4) In section 8 (import of certain clauses)—
- (a) for the words “forms Nos. 1 and 2” substitute “form No. 1”;
 - (b) the words “, and to all open procuratories, clauses, and precepts, if any, and as the case may be,” shall cease to have effect;
 - (c) for the words “rents in these forms” substitute “rents”;
 - (d) for the words “warrandice in these forms” substitute “warrandice”;
 - (e) for the words “feu duties, casualties, and public burdens, in form No. 1 of schedule (B.) hereto annexed,” substitute “public burdens”;
 - (f) for the words “feu duties or other duties and services or casualties payable or prestable to the superior, and of all public, parochial,” substitute “public”;
 - (g) the words from “; and the clause of obligation” to “other public, parochial, and local burdens, due from or on account of the lands conveyed prior to the date of entry” shall cease to have effect; and
 - (h) for the words from “in these two forms” to “to them” substitute “shall, unless specially qualified, have the meaning and effect assigned”.

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- (5) Sections 9 (conditions of entail may, in conveyances of entailed lands, be inserted by reference merely) and 10 (real burdens may be referred to as already in the register of sasines) shall cease to have effect.
- (6) In section 12 (clause directing part of conveyance to be recorded)—
 - (a) the words from “with a warrant of registration” to “hereto annexed),” shall cease to have effect;
 - (b) for the words “such keeper shall” substitute “the keeper may”; and
 - (c) the words from—
 - (i) “and warrant of registration;” to “on whose behalf the conveyance is presented”; and
 - (ii) “or to expedite and record” to the end,
 shall cease to have effect.
- (7) Sections 14 (certain clauses in entails no longer necessary), 15 (instrument of sasine no longer necessary), 17 (not necessary to record the whole conveyance or discharge), 18 (instrument of resignation *an remanentiam* unnecessary), 19 (notarial instruments in favour of general disponees) and 23 (notarial instruments in favour of parties acquiring rights to unrecorded conveyances) shall cease to have effect.
- (8) In section 24 (mode of completing title by judicial factor on trust estate etc.), the words “, with warrant of registration thereon,” shall cease to have effect.
- (9) For section 25 (mode of completing title by trustee in sequestration etc.) substitute—

“25 Deduction of title by liquidator

The liquidator in the winding up of a company shall, for the purposes of sections 3 (disposition etc. by person with unrecorded title) and 4 (completion of title) of the Conveyancing (Scotland) Act 1924 (c. 27) (including those sections as applied to registered leases by section 24 of that Act), be taken to be a person having right to any land belonging to the company.”.

- (10) In section 26 (heritable property conveyed for religious or educational purposes to vest in disponees or their successors), the words “with warrant of registration thereon in terms of this Act, or when followed by notarial instrument expedite, and with warrant of registration thereon recorded” and “feued,” shall cease to have effect.
- (11) Sections 27 to 50 (service of heirs: as saved by section 37(1)(d) of the Succession (Scotland) Act 1964 (c. 41)) shall cease to have effect.
- (12) In section 51 (power of Court of Session to pass acts of sederunt)—
 - (a) the word “said”, where it first occurs; and
 - (b) the words from “or Sheriffs of counties” to the end,
 shall cease to have effect.
- (13) In section 62 (effect of decree of adjudication or sale), for the words from “feudal titles to said lands” to the end, substitute “title by recording the decree as a conveyance or by using the decree as a midcouple or link of title.”.
- (14) Sections 63 to 93 (Crown writs), 96 (provision for temporary absence or disability of Sheriff of Chancery), 100 (all writs and charters from subject superiors may refer to

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tenendas and *reddendo*) 104 to 109 (ways of completing title where superior did not or could not grant entry), 110 (mode of relinquishing superiority), 111 (investiture by over superior), 112 (forfeiture or relinquishment of rights of superiority does not operate as contravention of entail, etc.), 113 (payment in lieu of casualties of superiority in case of lands conveyed for religious purposes), 114 and 116 (provisions as respects writs of *clare constat*, etc.) shall cease to have effect.

- (15) For section 117 (heritable securities to form moveable estate; except where conceived in favour of heirs, excluding executors, and *quoad fiscum*) there shall be substituted—

“117 Heritable security in succession of creditor in the security

In the succession of the creditor in a heritable security, the security shall be moveable estate; except that in relation to the legal rights of the spouse, or of the descendants, of the deceased it shall be heritable estate.”.

- (16) Sections 118 (form of bond and disposition in security) and 119 (import of standard clauses in bond and disposition in security) shall cease to have effect.
- (17) In section 120 (securities may be registered during lifetime of grantee etc.)—
- (a) “, whether dated before or after the commencement of this Act,”; and
 - (b) the proviso,
- shall cease to have effect.
- (18) Sections 121 to 123 (sale under pre-1970 heritable securities), 124 (form for transfer of pre-1970 heritable security) 126, 127 and 130 (completion of title by notarial instrument), 131 (saving), 132 and 133 (provision for forms as respects pre-1970 heritable securities), 134 (application of the Act to all heritable securities), 135 (applicability of pre-1845 forms for heritable securities), 137 (applicability to lands held by any description of tenure) and 141 (requirement for warrant of registration) shall cease to have effect.
- (19) In section 140 (additional sheets added to writs), the words “, and subsequent sheets (if any) shall be chargeable with the appropriate progressive duty” shall cease to have effect.
- (20) In section 142 (recording of conveyances in register of sasines)—
- (a) the words “, and all instruments hereby” and “, with warrants of registration written thereon respectively,” shall cease to have effect; and
 - (b) for the words “, in the same manner as instruments of sasine, or notarial instruments, are at present recorded, and the same” substitute “and”.
- (21) For section 143 substitute—

“143 Recording anew

Where there is an error or defect in recording a deed or conveyance in the Register of Sasines it shall be competent to record it anew.”.

- (22) Sections 144 (erasures), 145 (challenge to pre-1868 warrant of registration), 146 (insertion of real burdens etc. in a conveyance or deed applicable to lands), 147 (nothing in Act to affect prohibition against sub-infeudation or to take away or impair certain rights or remedies competent to a superior), 150 (debts affecting lands exchanged for other lands), 152 (lands held by the tenure of booking), 154 (personal

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interest of keeper of register), 156 (short form of letters of inhibition), 161 (review of certain judgments etc.), 162 (acts of sederunt for purposes of Act etc.) and 163 (old forms of conveyances may still be used) shall cease to have effect.

(23) The Schedules, except Schedules (B.) No.1, (F.) No.1, (G.), (PP.) and (RR.), shall cease to have effect; and in Schedule (B.) No. 1 the words—

(a) from “to be holden” to “as the case may be];” and

(b) “feu duties, casualties, and”,

shall cease to have effect.