

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 14. (See end of Document for details)

SCHEDULE 14

(introduced by section 128(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 (1) Section 3 of the Registration of Leases (Scotland) Act 1857 (assignment of recorded, or registered, leases etc.) shall be amended in accordance with this paragraph.
- (2) In subsection (2)—
- (a) the existing words “to impose conditions and make stipulations” shall become paragraph (i); and
 - (b) after that paragraph there shall be inserted the word “or” and the following paragraph—
“*(ii) to import such conditions and stipulations,*”.
- (3) After subsection (2) there shall be inserted—
- “(2A) Any person entitled to grant an assignment under this section may—
- (a) execute a deed containing such conditions, or stipulations, as may be specified in an assignment under subsection (2) above; and
 - (b) register such conditions and stipulations in the Land Register of Scotland or, as the case may be, record the deed in the Register of Sasines,
- and, subject to subsection (2C) below, on such registration or, as the case may be, recording such conditions and stipulations shall be effectual.
- (2B) “Import” in subsection (2)(ii) above means to import into itself from a deed of conditions (“deed of conditions” having the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) the terms of the conditions or stipulations; and importation in or as nearly as may be in the form set out in schedule 1 to that Act (but with the modification that for the references in that form to the terms of the title conditions there are substituted references to the terms of the conditions or stipulations) shall suffice in that regard.
- (2C) Where, notwithstanding section 3(4) of the Land Registration (Scotland) Act 1979 (c. 33) (creation of real right or obligation on date of registration etc.), a deed provides for the postponement of effectiveness of any conditions or, as the case may be, stipulations to—
- (a) a date specified in that deed (the specification being of a fixed date and not, for example, of a date determinable by reference to the occurrence of an event); or
 - (b) the date of—
 - (i) registration of an interest in land under; or
 - (ii) recording of,some other deed so specified,
- the conditions, or stipulations, shall take effect in accordance with such provision.”.
- (4) In subsection (3), after the word “(2)” there shall be inserted “or (2A)”.
- (5) In subsection (4), after the word “assignment”—
- (a) where it first occurs, there shall be inserted “, or as the case may be in a deed such as is mentioned in subsection (2A) above,”; and

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- (b) where it secondly occurs, there shall be inserted “, or as the case may be the deed,”.
- 2 In section 138 of the Titles to Land Consolidation (Scotland) Act 1868 (use in any deed of short clauses of consent to registration), for the words “forms Nos. 1 and 2” there shall be substituted “form No.1”.
- 3 (1) The Conveyancing (Scotland) Act 1924 shall be amended in accordance with this paragraph.
- (2) In section 8(5) (application of Schedule D to the Act), for the words “Schedule H of the Conveyancing (Scotland) Act 1874” there shall be substituted “schedule 1 to the Title Conditions (Scotland) Act 2003 (asp 9)”.
- (3) In section 40(2) (powers of creditor), after the word “conditions” there shall be inserted “(whether or not by creating a real burden)”.
- 4 (1) The Conveyancing and Feudal Reform (Scotland) Act 1970 shall be amended in accordance with this paragraph.
- (2) In section 9 (which introduces the standard security)—
- (a) after subsection (2A) there shall be inserted—
- “(2B) It shall not be competent to grant a standard security over a personal pre-emption burden or personal redemption burden (both within the meaning of Part 4 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).”; and
- (b) in subsection (8)(b), for the definition of “interest in land” there shall be substituted—
- ““real right in land” means any such right, other than ownership or a real burden, which is capable of being held separately and to which a title may be recorded in the Register of Sasines;”.
- (3) In section 19 (calling-up of standard security), in subsection (4), for the words “infert in” there shall be substituted . ““having title to” ”
- (4) In section 19A(1) (notice to occupier of calling up), for the words “an interest” there shall be substituted . ““land or a real right” ”
- (5) In section 24(3) (application by creditor for remedies on default), for the words “an interest” there shall be substituted . ““land or a real right” ”
- 5 (1) The Prescription and Limitation (Scotland) Act 1973 shall be amended in accordance with this paragraph.
- (2) In section 1 (prescriptive period in relation to real rights in land), in subsection (3), after the word “to”, where it fourthly occurs, there shall be inserted “real burdens,”.
- (3) In Schedule 1 (obligations affected by prescriptive periods of five years under section 6 of the Act)—
- (a) in paragraph 1(a)(vii), for the words “land obligation” there shall be substituted “title condition”; and
- (b) for paragraph 4 there shall be substituted—
- “4 In this Schedule, “title condition” shall be construed in accordance with section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”.

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 14. (See end of Document for details)

- (4) In Schedule 3 (rights and obligations which are imprescriptible for certain purposes of the Act), in sub-paragraph (h), for the word “interest” there shall be substituted “real right”.
- 6 In section 2 of the Land Tenure Reform (Scotland) Act 1974 (prohibition of new ground annuals and other periodical payments from land)—
- (a) in subsection (1), for the words “land obligation” there shall be substituted “title condition”; and
- (b) after subsection (2) there shall be added—
- “(3) In subsection (1) above, “title condition” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”.
- 7 (1) The 1979 Act shall be amended in accordance with this paragraph.
- (2) In each of sections 2(6) (interpretation) and 3(1) (effect of registration), for the words “sections 17, 18 and” there shall be substituted. “ section”
- (3) In section 3(6) (special provision as respects completion of title)—
- (a) for the words “an uninfert proprietor” there shall be substituted “an unregistered holder”;
- (b) for the words “the uninfert proprietor” there shall be substituted “him”;
- (c) for the word “infert” there shall be substituted “registered as entitled to the interest”; and
- (d) for the words from “section 4” to “land”, where it secondly occurs, there shall be substituted “—
- (a) section 4 of the Conveyancing (Scotland) Act 1924 (c. 27);
- (b) section 18A(8)(a) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5); and
- (c) section 41(a) of the Title Conditions (Scotland) Act 2003 (asp 9),
- (each of which relate to completion of title) shall be of no effect in relation to such an interest in land. ”.
- (4) In section 6 (the title sheet), at the end there is added—
- “(6) In subsections (1)(e) and (2) above, “condition” includes a servitude created by a deed registered in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9) and a rule of a development management scheme (“development management scheme” being construed in accordance with section 71 of that Act).”.
- (5) In section 12 (indemnity in respect of loss)—
- (a) in subsection (3), after paragraph (g) there shall be inserted—
- “(gg) the loss arises from inability to enforce sporting rights converted into a tenement in land by virtue of section 65A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), unless the Keeper expressly assumes responsibility for the enforceability of those rights;”;
- (b) at the end there is added—

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Title Conditions (Scotland) Act 2003, SCHEDULE 14. (See end of Document for details)

“(5) In subsection (3)(g) above, “condition” includes a rule of a development management scheme (“development management scheme” being construed in accordance with section 71 of the Title Conditions (Scotland) Act 2003 (asp 9)).”.

(6) In section 15 (simplification of deeds relating to registered interests), for subsection (3) there shall be substituted—

“(3) It shall not be necessary, in any deed relating to a registered interest in land, to deduce title if evidence of sufficient midcouples or links between the unregistered holder and the person last registered as entitled to the interest are produced to the Keeper on registration in respect of that interest in land.”.

(7) In section 28(1) (interpretation)—

(a) in the definition of “incorporeal heritable right”—

(i) the existing words “a right to salmon fishings” shall become paragraph (a);

(ii) after that paragraph there shall be inserted the word “; or” and the following paragraph—

“(b) sporting rights (as defined by section 65A(9) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5));”;
and

(b) in paragraph (d) of the definition of “overriding interest”, for the words “a servitude” there shall be substituted “any servitude which was not created by registration in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9)”.

Modifications etc. (not altering text)

C1 [Sch. 14 para. 7](#) wholly in force; [Sch. 14 para. 7\(1\)\(3\)\(6\)](#) in force at 4.4.2003 see [s. 129\(2\)\(5\)](#); [Sch. 14 para. 7](#) otherwise in force at 28.11.2004 by [S.S.I. 2003/456](#), [art. 2](#)

8 In section 17 of the Ancient Monuments and Archaeological Areas Act 1979 (agreements concerning ancient monuments and land in their vicinity), for subsection (7) there shall be substituted—

“(7) Section 84 of the Law of Property Act 1925 (c. 20) (power of Lands Tribunal to discharge or modify restrictive covenant) shall not apply to an agreement under this section.”.

9 In section 23 of the Health and Social Services and Social Security Adjudications Act 1983 (arrear contributions secured over interest in land in Scotland)—

(a) in subsection (1)(b)—

(i) after the word “Scotland” (and within the parentheses) there shall be inserted “ “an interest in land” meaning land or;”; and

(ii) after the words “1970” (and within the parentheses) there shall be inserted “, a real right in land”; and

(b) for subsection (4) there shall be substituted—

“(4) Where an interest in land (as defined in subsection (1)(b) above) over which a charging order is made is an interest to which the debtor

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does not have a completed title, the order shall be as valid as if the debtor had such title.”.

- 10 In Schedule 3 to the Further and Higher Education (Scotland) Act 1992 (transfer and apportionment of property)—
- (a) in paragraph 1—
- (i) in each of sub-paragraphs (2) and (3), for the words “land obligations” there shall be substituted “title conditions”; and
- (ii) for sub-paragraph (5) there shall be substituted—
- “(5) In this Schedule, “title conditions” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”; and
- (b) in paragraph 4(6), for the words “land obligations” there shall be substituted “title conditions”.
- 11 In section 16(6) of the Crofters (Scotland) Act 1993 (provisions relating to conveyance), for the words “land obligations as defined in section 1(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970” there shall be substituted “title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).”.
- 12 In section 58(1) of the Standards in Scotland’s Schools etc. Act 2000 (interpretation), in the definition of “land”, for the words “land obligations (as defined in section 2(6) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35)” there shall be substituted “title conditions, within the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)”.
- 13 In each of sections 1(1) (application to suspend enforcement of standard security) and 4(4) (notices to proprietors and occupiers) of the Mortgage Rights (Scotland) Act 2001, for the words “an interest” there shall be substituted “land or a real right”.

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