

**Changes to legislation:** Succession (Scotland) Act 1964, SCHEDULE 2 is up to date with all changes known to be in force on or before 17 April 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) View outstanding changes

## SCHEDULES

### SCHEDULE 2

Section 34.

#### MODIFICATION OF ENACTMENTS

##### *General modifications*

- 1 Subject to the specific modifications made by the following provisions of this Schedule, references in any enactment to the heir-at-law of a deceased person in relation to any heritable property . . . <sup>F1</sup> shall be construed as references to the persons who by virtue of this Act are entitled to succeed to such property on intestacy.

##### **Textual Amendments**

- F1** Words repealed by Law Reform (Miscellaneous Provisions)(Scotland) Act 1968 (c. 70), ss. 8, 22(3), Sch. 2 Pt. I para. 29, Sch. 3

- 2 Subject as aforesaid references in general terms in any enactment to the heirs of a deceased person shall include—
- (a) the persons entitled by virtue of this Act to succeed on intestacy to any part of the estate of the deceased; and
  - (b) so far as is necessary for the purposes of Part III of this Act, the executor of the deceased.
- 3 References in any enactment relating to the confirmation of executors or the administration of the moveable estates of deceased persons to the moveable or personal property or estate of a deceased person shall, except where the context otherwise requires, be construed as references to the whole estate of the deceased person.
- 4 References in any enactment (other than in this Act) to courtesy or terce shall be of no effect.

##### *Specific modifications*

The Registration of Leases (Scotland) Act 1857.

20 & 21 Vict. c. 26.

- 5 In sections 8 and 9, and Schedules (C) and (F), for references to the heir or heirs or to the general disponee (other than a general disponee under an *inter vivos* deed) of a person in right of a lease to which the Act applies or of an assignation in security of such a lease there shall be substituted references to the executor of such a person; and for any reference to service there shall be substituted a reference to confirmation.

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- 6 In Schedule (C), for the words from “court before which” to “retoured to Chancery” there shall be substituted the words “ court by which confirmation has been granted ”.

**Modifications etc. (not altering text)**

- C1** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 7 In Schedule (F), for the words “court before which the heir has been served” there shall be substituted the words “ court by which confirmation has been granted ”.

**Modifications etc. (not altering text)**

- C2** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Titles to Land Consolidation (Scotland) Act 1868.*

31 & 32 Vict. c. 101.

- 8 In section 20, for the words from “equivalent to a general disposition” to “competent to a general disponee” there shall be substituted the words “ valid as a settlement on a grantee or legatee of the lands to which it applies; and the executor of the grantor may complete title to such lands by expeding and recording a notarial instrument as aforesaid ”.

**Modifications etc. (not altering text)**

- C3** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Crofters Holdings (Scotland) Act 1886.*

49 & 50 Vict. c. 29.

- 9 In section 16, for the words from “a member” to “case of intestacy” there shall be substituted the words “ his son-in-law or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964 ”.

**Modifications etc. (not altering text)**

- C4** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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- 10 In section 16, at end of paragraph (e) there shall be inserted the words “ and shall be intimated by the landlord to the executor of the deceased tenant ”.

**Modifications etc. (not altering text)**

- C5 The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 11 In section 16, in paragraph (f), after the word “legatee”, where that word second occurs, there shall be inserted the words “ with the consent of the executor in whom the tenancy is vested under section 14 of the Succession (Scotland) Act 1964 ”.

**Modifications etc. (not altering text)**

- C6 The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 12 In section 16, for paragraph (h) there shall be substituted the following paragraph:—  
“(h) if the legatee does not accept the bequest, or if the bequest is declared to be null and void as aforesaid, the right to the holding shall be treated as intestate estate of the deceased tenant in accordance with Part I of the Succession (Scotland) Act 1964; and where a tenancy is transferred under section 16 of the said Act of 1964, the executor of the deceased tenant shall as soon as may be furnish particulars of the transferee to the landlord who shall accept the transferee as tenant.”.

**Modifications etc. (not altering text)**

- C7 The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Executors (Scotland) Act 1900.*

63 & 64 Vict. c. 55.

- 13 In section 6—  
(a) ..... F2  
(b) for the words “funds in Scotland standing or invested in his name” there shall be substituted the words “ property (whether heritable or moveable) in Scotland vested in him ”; and  
(c) for any other reference to funds there shall be substituted a reference to property.

**Textual Amendments**

- F2 S. 34(2), Sch. 2 para. 13(a) and Sch. 3 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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**Modifications etc. (not altering text)**

**C8** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

14 In section 7, after the words “estate contained therein”, there shall be inserted the words “ and it shall be competent to specify such confirmation as a midcouple or link of title for the purposes of any deduction of title in relation to such estate from the former executors ”.

**Modifications etc. (not altering text)**

**C9** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Small Landholders (Scotland) Act 1911.*

1 & 2 Geo. 5. c. 49.

15 In section 21, for the words from “a member” to “case of intestacy” there shall be substituted the words “ his son-in-law or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964 ”.

**Modifications etc. (not altering text)**

**C10** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

16 In section 31, after the words “whether as” there shall be inserted the words “ a person to whom a tenancy is transferred under section 16 of the Succession (Scotland) Act 1964 or the executor or ”.

**Modifications etc. (not altering text)**

**C11** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Conveyancing (Scotland) Act 1924.*

14 & 15 Geo. 5. c. 27.

17 In section 32, after the words “person be dead, the” insert the words “ executor or ”.

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**Modifications etc. (not altering text)**

**C12** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

18 In section 33, after the words “then to the” insert the words “ executor or ”.

**Modifications etc. (not altering text)**

**C13** The text of Sch. 2 paras. 6–12, 13(b)(c), 14–23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Agricultural Holdings (Scotland) Act 1949.*

12, 13 & 14 Geo. 6. c. 75.

<sup>F3</sup>19 .....

**Textual Amendments**

**F3** Sch. 2 para. 19 repealed (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), [Sch.13 Pt. I](#) (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F4</sup>20 .....

**Textual Amendments**

**F4** Sch. 2 para. 20 repealed (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), [Sch.13 Pt. I](#) (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F5</sup>21 .....

**Textual Amendments**

**F5** Sch. 2 para. 21 repealed (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#) ss. 88(2), 89(2), [Sch.13 Pt. I](#) (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F6</sup>22 .....

**Textual Amendments**

**F6** Sch. 2 para. 22 repealed (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), [Sch.13 Pt. I](#) (with s. 45(3), Sch. 12 paras. 1, 3)

*The Agriculture Act 1958.*

6 & 7 Eliz. 2. c. 71.

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F<sup>7</sup>23 .....

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**Textual Amendments**

**F7** [Sch. 2 para. 23](#) repealed (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55. SIF 2:3), ss. 88(2), 89(2), Sch.13 Pt. I (with s. 45(3), Sch. 12 paras. 1, 3)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(1)(ab) inserted by [2024 asp 2 s. 77\(1\)\(a\)](#)