



Conveyancing (Scotland) Act 1924

1924 CHAPTER 27

44 General Register of Inhibitions and Register of Adjudications to be combined; limitation of effect of entries therein

- (1) The General Register of Inhibitions and Interdictions and the Register of Adjudications shall be combined, and the Keeper thereof shall keep only one register for inhibitions, interdictions, adjudications, reductions, and notices of litigiousity, and such register shall be called the Register of Inhibitions and Adjudications; and a reference in any public, general or local Act to the General Register of Inhibitions or the Register of Adjudications shall be deemed to mean and include such Register of Inhibitions and Adjudications.
- (2)
 - (a) No action whether raised before or after the commencement of this Act relating to land or to a lease or to a heritable security, shall be deemed to have had or shall have the effect of making such land, lease or heritable security litigious, unless and until a notice relative to such action in or as nearly as may be in the form of Schedule RR annexed to the Titles to Land Consolidation (Scotland) Act, 1868, shall have been or shall be registered in the Register of Inhibitions and Adjudications in the manner provided by section one hundred and fifty-nine of that Act.
 - (b) No decree in any action of adjudication of land or of a lease or of a heritable security, whether pronounced before or after the commencement of this Act, and no abbreviate of any such decree shall be deemed to have had or to have any effect in making such land, lease or heritable security litigious.
- (3)
 - (a) All inhibitions and all notices of litigiousity registered in terms of section one hundred and fifty-nine of the Titles to Land Consolidation (Scotland) Act, 1868, subsisting at the commencement of this Act shall prescribe and be of no effect on the lapse of five years after such commencement or at such earlier date as they would prescribe according to the present law and practice; .and all inhibitions and notices of litigiousity which relate to land or to a lease or to a heritable security and which shall be first registered after the commencement of this Act, shall prescribe and be of no effect on the lapse of five years from the date on which the same shall respectively take effect: Provided that in no case shall litigiousity be pleadable or be founded on to any effect after the

Status: This is the original version (as it was originally enacted).

- expiry of six months from and after final decree is pronounced in the action creating such litigiousity.
- (b) From and after the commencement of this Act interdiction, whether judicial or voluntary, shall be incompetent, and any interdiction which is legally operative at such commencement shall remain legally operative for not longer than the period of five years thereafter.
- (4) (a) The proviso contained in the first paragraph of section forty-four of the Bankruptcy (Scotland) Act, 1913, shall on the lapse of five years from and after the commencement of this Act apply to sequestrations awarded before the passing of that Act and still subsisting as well as to sequestrations awarded subsequent thereto, and as if the abbreviate of the petition and deliverance in any such sequestration awarded before the passing of that Act had been recorded at the date of the commencement of this Act.
- (b) In the event of any land or lease or heritable security having been acquired by the bankrupt, or having descended or reverted, or come to him after the date of the sequestration, and before the bankrupt shall have obtained his discharge, and of such land or lease or heritable security having been declared to be vested in the trustee in terms of section one hundred and three of the Bankruptcy (Scotland) Act, 1856, or of section ninety-eight of the Bankruptcy (Scotland) Act, 1913, it shall be competent to the trustee, and he is hereby required within one month after such land or lease or heritable security shall have been declared to be vested in him, to record, in the appropriate Register of Sasines with regard to such land or lease or heritable security, a memorandum in the form provided by the said section forty-four of the said Act of 1913, as amended by this Act, which memorandum being so recorded shall have the effect of a memorandum recorded in terms of the said section forty-four as amended as aforesaid : Provided always that all decrees obtained before the expiry of one year after the commencement of this Act, declaring any land or lease or heritable security to be vested in a trustee in bankruptcy shall, for the purposes of this section be deemed to have been dated within one month before the recording of such memorandum, if the same shall have been recorded within one year after the commencement of this Act.
- (c) No deed, decree, instrument or writing granted or expedite by a person whose estates have been sequestrated under the Bankruptcy (Scotland) Act, 1856, or the Bankruptcy (Scotland) Act, 1913, or the heirs, executors, successors or assignees of such person relative to any land or lease or heritable security belonging to such person at the date of such sequestration or subsequently acquired by him shall be challengeable or denied effect on the ground of such sequestration if such deed, decree, instrument or writing shall have been granted or expedite, or shall come into operation at a date when the effect of recording the abbreviate provided for under section forty-four of the said Act of 1913, as amended by this Act, shall have expired in terms of the said section as amended, as aforesaid, unless the trustee in such sequestration shall before the recording of such deed, decree, instrument or writing in the appropriate Register of Sasines have completed his title to such land, lease or heritable security by recording the same in such register : Provided always, in the case of sequestrations awarded under the Bankruptcy (Scotland) Act, 1856, that the provisions of this section shall not apply to any deed, decree, instrument or writing dated within five years after the commencement of this Act.
- (5) The provisions of this section shall not affect the ranking of adjudgers inter se, or any real right obtained in virtue of a decree of adjudication, or in virtue of a decree

pronounced in an action creating litigiosity, or by a trustee in bankruptcy, if such right has been completed by the recording in the appropriate Register of Sasines of any deed, decree, abbreviate, or instrument necessary to effect the completion of such right.

- (6) Section one hundred and fifty-nine of the Titles to Land Consolidation (Scotland) Act, 1868, and sections sixteen and seventeen of the Land Registers (Scotland) Act, 1868, and section forty-four of the Bankruptcy (Scotland) Act, 1913, are hereby amended in accordance with this section, and section forty-two of the Conveyancing (Scotland) Act, 1874, and Schedule J thereto annexed, are hereby repealed.