



Church of Scotland (Property And Endowments) Act 1925

1925 CHAPTER 33 15 and 16 Geo 5

PART III

TRANSFER OF PARISH CHURCHES, MANSES, GLEBES AND CHURCHYARDS

28 Transfer of rights in parish churches and manses.

- (1) Where the General Trustees are of opinion that any church or manse is not in a reasonable state of tenantable repair and that the duty of executing repairs is incumbent upon heritors, the General Trustees may agree with the heritors concerned for the repair of the same by or at the expense of the heritors or for the payment by the heritors to the General Trustees of a sum of money in lieu of repair, and failing agreement the General Trustees may within three years after the passing of this Act apply to the sheriff for an order directing the heritors to carry out such repairs (if any) not involving structural alterations as he may consider necessary, or if the General Trustees so require to pay to the General Trustees such sum of money in lieu of repair as the sheriff may determine. The sheriff shall deal with any such application in a summary manner and his decision shall be final.
- (2) Any heritor concerned or the General Trustees may apply to the Sheriff for a certificate that all obligations incumbent on the heritors with respect to the church or manse of a parish have been fulfilled, and the sheriff shall deal with the application in a summary manner and shall issue a certificate to that effect if the General Trustees state or admit that all such obligations have been fulfilled, or if failing such statement or admission, he is satisfied either that any agreement or order made as aforesaid has been implemented, or that notwithstanding the absence of any such agreement no application has been made for such an order within three years after the passing of this Act, or that any application for an order so made has been refused. The certificate may be in or as nearly as may be in the form set out in the Eleventh Schedule to this Act, and shall contain or refer to a description of the subjects whether church or manse to which it relates and may be recorded by the General Trustees or by any heritor concerned in the appropriate Register of Sasines.

Changes to legislation: There are currently no known outstanding effects for the Church of Scotland (Property And Endowments) Act 1925, Section 28. (See end of Document for details)

- (3) When a certificate issued by the sheriff under this section has been recorded as aforesaid—
 - (a) any liability or obligation incumbent on any heritor in connection with the subjects to which the certificate relates shall be at an end except the obligation or liability to assess or to be assessed for the repayment of any debt existing at the date of the certificate; and
 - (b) [^{F1} the ownership of] the said subjects shall by virtue of this Act and without the necessity of any further conveyance vest in and belong to the General Trustees^{F2}

- (4) Whereas in certain parishes, [^{F3}islands and district] councils, or other public bodies (whether statutory or otherwise) or kirk sessions or persons are under the present law and practice or by Royal Warrant, charter, agreement or custom liable along with or in place of the heritors in obligations relating to the church or manse, it shall be lawful, in any such case, for the presbytery or the General Trustees or any other person concerned to apply to the sheriff to find and declare that the case ought to be dealt with by the Commissioners, and if the sheriff so finds and declares the provisions of this section shall have no further application to the case, and the Commissioners shall as soon thereafter as conveniently may be inquire into all circumstances relating to existing obligations in respect of the fabric and site of such church or manse and the maintenance of such fabric, and by order provide for the transfer to the General Trustees of the said fabric and site, and of all powers and duties with respect to the maintenance and repair of the said fabric.

- (5) If in any application to the sheriff under this section a question arises as to whether or not the church or manse to which the application relates is the church or manse of a parish within the meaning of this section, that question shall be determined by the sheriff in a summary manner, and his determination shall be final.

- ^{F4}(6)
- ^{F4}(7)
- ^{F4}(8)

Textual Amendments	
F1	Words in s. 28(3)(b) substituted (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(4)(a)(i) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
F2	Words in s. 28(3)(b) repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(4)(a)(ii), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
F3	Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 65
F4	S. 28(6)-(8) repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(4)(b), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
Modifications etc. (not altering text)	
C1	Ss. 21(2), 28(2) amended by Land Registration (Scotland) Act 1979 (c.33, SIF 31:3), s. 29(2)(3)

Changes to legislation:

There are currently no known outstanding effects for the Church of Scotland (Property And Endowments) Act 1925, Section 28.