



Titles to Land Consolidation (Scotland) Act 1868

1868 CHAPTER 101 31 and 32 Vict

1 Short title.

This Act may be cited for all purposes as “The Titles to Land Consolidation (Scotland) Act 1868.”

2 Commencement of Act.

This Act shall take effect from and after the thirty-first day of December one thousand eight hundred and sixty-eight, unless in so far as it is herein appointed to take effect at an earlier date.

3 Interpretation of terms.

The following words and expressions in this Act, and in the schedules annexed to this Act, shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

[^{F1}The words “grantor”,] “grantee,” “disponer,” “disponee,” “legatee,” “adjudger,” and “purchaser” shall extend to and include the heirs, successors, and representatives of [^{F1}such grantor], grantee, disponer, disponee, legatee, adjudger, or purchaser respectively; and the word “successors” shall extend to and include heirs, disponees, assignees legal as well as voluntary, executors, and representatives:

^{F2}

.....
The words “Sheriff of Chancery” shall extend to and include the Sheriff of Chancery and his substitute under this Act, or under the Act of the tenth and eleventh Victoria, chapter forty-seven; and the word “Sheriff” shall extend to and include [^{F3}the Sheriff Principal ^{F4}... of any sheriffdom ^{F4}... and the Sheriff] and the Sheriff of Chancery and his substitute:

The words “Sheriff Clerk of Chancery” shall extend to and include the Sheriff Clerk of Chancery acting under this Act, or who acted under the ^{M1}Act of the tenth and eleventh Victoria, chapter forty-seven, and the depute of such

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Sheriff Clerk; and the words “Sheriff Clerk” shall extend to and include the Sheriff Clerk of Chancery and [^{F5}the Sheriff Clerk ^{F4}... of the sheriff court district concerned]^{F4}... and their respective deputies:

^{F6}... the word “Prince” shall extend to and include the Prince and Steward of Scotland and his successors:

^{F6}
...

The word “deed” and the word “conveyance” shall each extend to and include all ^{F6}... writs, dispositions, ^{F6}... whether inter vivos or mortis causa, and whether absolute or in trust, ^{F6}... heritable securities, reversions, assignations, instruments, decrees of constitution relating to land to be afterwards adjudged, decrees of adjudication for debt, and of adjudication in implement, and of constitution and adjudication combined, whether for debt or implement, decrees of declarator and adjudication, decrees of sale, and decrees of general and of special service ^{F6}... and the summonses, petitions, or warrants on which any such decrees proceed, warrants to judicial factors, trustees, or beneficiaries of a lapsed trust, to make up titles to lands, and the petitions on which such warrants proceed, writs of acknowledgment, contracts of excambion, deeds of entail ^{F6}... and all deeds, decrees, and writings by which lands, or rights in lands, are constituted or completed or conveyed, or discharged, whether dated, granted, or obtained before or after the passing of this Act, and official extracts of all deeds and conveyances; and all codicils, deeds of nomination, and other writings annexed to or endorsed on deeds or conveyances or bearing reference to deeds or conveyances separately granted, and decrees of declarator naming or appointing persons to exercise or enjoy the rights or powers conferred by such deeds or conveyances, shall be deemed and taken for the purposes of this Act to be parts of the deeds or conveyances to which they severally relate, and shall have the same effect in all respects as to the persons so named and appointed as if they had been named and appointed in the deeds or conveyances themselves:

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...

The word “instrument” shall extend to and include all notarial instruments ^{F6}... and also all instruments of sasine, instruments of resignation ad remanentiam, instruments of resignation and sasine, and instruments of cognition and sasine, and instruments of cognition:

The words “heritable security” and “security” shall each extend to and include all heritable bonds, bonds and dispositions in security, bonds of annual rent, bonds of annuity, and all securities authorized to be granted by the seventh section of the ^{M2}Debts Securities (Scotland) Act 1856, and all deeds and conveyances whatsoever, legal as well as voluntary, which are or may be used for the purpose of constituting or completing or transmitting a security over lands or over the rents and profits thereof, as well as such lands themselves and the rents and profits thereof, and the sums, principal, interest, and penalties secured by such securities, but shall not include securities by way of ground annual, whether redeemable or irredeemable, or absolute dispositions qualified by back bonds or letters:

The word “creditor” shall extend to and include the party in whose favour an heritable security is granted, and his successors in right thereof:

The word “debtor” shall include the debtor and his successors:

The word “lands” shall extend to and include all heritable subjects, securities, and rights:

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The words “notary public” shall be held to mean a notary public duly admitted to practise in Scotland:

The word “petitioner” shall extend to and include any person who may have presented or may present a petition within the meaning of this Act, or of any Act hereby repealed:

The words “judicial factor” shall extend to and include judicial factors^{F7} ... to persons under incapacity,^{F8} ..., factors loco absentis, and all judicial managers:
^{F6} ...

Textual Amendments

- F1** Words in s. 3 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(2)(a)(b) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F2** Definition repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)
- F3** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4(2), **Sch. para. 1**
- F4** Words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)
- F5** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**, Pt. I para. 1(3)
- F6** Words in s. 3 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(2)(c)-(h), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F7** S. 3: words in definition of “judicial factor” repealed (1.4.2002) by [2000 asp 4](#), s. 88(3), **Sch. 6**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F8** Words in s. 3 repealed (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(2), 11(2), **Sch. 2** (with s. 1(3))

Marginal Citations

- M1** 1847 c. 10.
- M2** 1856 c. 91.

^{F9}4 †Acts specified in Schedule (A.) repealed.

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Textual Amendments

- F9** S. 4 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C1** Unreliable Marginal Note.

^{F10}5 **In conveyances of land, etc. not held burgage, certain clauses may be inserted in the short forms given in Schedule (B.) No. 1.**

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Textual Amendments

- F10** S. 5 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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^{F11}6 **Import of clause expressing manner of holding.**

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Textual Amendments

- F11** S. 6 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F12}7 **In conveyances of burgage property certain clauses may be inserted in the forms given in Schedule (B.) No. 2.**

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Textual Amendments

- F12** S. 7 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(3), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

8 Import of clauses in schedule (B.) Nos. 1 & 2.

^{F13} ... the clause of assignation of writs and evidents in [^{F14}form No. 1] of schedule (B.) hereto annexed shall, unless specially qualified, be held to import an absolute and unconditional assignation to such writs and evidents ^{F15}... therein contained, and to all unrecorded conveyances to which the disponer has right; and the clause of assignation of [^{F14}rents] shall, unless specially qualified, be held to import an assignation to the rents to become due for the possession following the term of entry, according to the legal and not the conventional terms, unless in the case of *forehand rents*, in which case it shall be held to import an assignation to the rents payable at the conventional terms subsequent to the date of entry; and the clause of [^{F14}warrandice] shall, unless specially qualified, be held to imply absolute warrandice as regards the lands and writs and evidents, and warrandice from fact and deed as regards the rents; and the clause of obligation to free and relieve from [^{F14}public burdens] shall, unless specially qualified, be held to import an obligation to relieve of all [^{F14}public] and local burdens due from or on account of the lands conveyed prior to the date of entry ^{F15}... and the clause of consent to registration [^{F14}shall, unless specially qualified, have the meaning and effect assigned] in the one hundred and thirty-eighth section of this Act.

Textual Amendments

- F13** Words in s. 8 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)
- F14** Words in s. 8 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(4)(a)(c)-(f)(h) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F15** Words in s. 8 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(4)(b)(g), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F16}9 **Conditions of entail may, in conveyances of entailed lands, be inserted by reference merely.**

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Textual Amendments

F16 S. 9 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(5), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F17}10 Real burdens may be referred to as already in the register of sasines.

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Textual Amendments

F17 S. 10 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(5), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

11 **^{F18}**

Textual Amendments

F18 S. 11 repealed by [Conveyancing \(Scotland\) Act 1874 \(c. 94\)](#), s. 61

12 Clause directing part of conveyance to be recorded.

Immediately before the testing clause of any conveyance of lands, it shall be competent to insert a clause of direction, in or as nearly as may be in the form No. 1 of schedule (F.) hereto annexed, specifying the part or parts of the conveyance which the grantor thereof desires to be recorded in the register of sasines; and when such clause is so inserted in any conveyance, whether dated before or after the commencement of this Act, and ^{F19}... is presented to the keeper of the appropriate register of sasines for registration, [^{F20}the keeper may] record such part or parts only, together with the clause of direction and the testing clause ^{F19}....: Provided that, notwithstanding such clause of direction, it shall be competent for the person entitled to present the conveyance for registration to record the whole conveyance, ^{F19}....

Textual Amendments

F19 Words in s. 12 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(6)(a)(c), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
F20 Words in s. 12 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(6)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

13 Several lands conveyed by the same deed may be comprehended under one general name.

Where several lands are comprehended in one conveyance in favour of the same person or persons, it shall be competent to insert a clause in the conveyance, declaring that the whole lands conveyed and therein particularly described shall be designed and known in future by one general name to be therein specified; and on the

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conveyance containing such clause, whether dated before or after the commencement of this Act, or on an instrument following thereon, whether dated before or after the commencement of this Act, and containing such particular description and clause, being duly recorded in the appropriate register of sasines, it shall be competent in all subsequent conveyances and deeds and discharges, of or relating to such several lands, to use the general name specified in such clause as the name of the several lands declared by such clause to be comprehended under it; and such subsequent conveyances and deeds and discharges of or relating to such several lands under the general name so specified shall be as effectual in all respects as if the same contained a particular description of each of such several lands, exactly as the same is set forth in such recorded conveyance or instrument: Provided always, that reference be made in such subsequent conveyances and deeds and discharges to a prior conveyance or instrument recorded as aforesaid, in which such particular description and clause are contained: Provided also, that it shall not be necessary in such clause to comprehend under one general name the whole lands contained in the conveyance in which such clause is inserted, but that it shall be competent to comprehend certain lands under one general name and certain other lands under another general name, it being clearly specified what lands are comprehended under each general name; and such reference shall be in or as nearly as may be in the terms set forth in schedule (G.) hereunto annexed.

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Modifications etc. (not altering text)
C2 S. 13 excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33\), s. 15\(1\)](#)

^{F21} **14 Certain clauses in entails no longer necessary.**

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Textual Amendments
F21 S. 14 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(7), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F22} **15 Instrument of sasine no longer necessary, but conveyance may be recorded instead.**

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Textual Amendments
F22 S. 15 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(7), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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Textual Amendments

F23 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and s. 16 expressed to be repealed (*prosp.*) by [2000 asp 5, ss. 76\(2\), 77\(2\)\(a\)\(d\)](#), **Sch. 13 Pt. 1** (with [ss. 58, 62, 75](#))

F24 **17 Not necessary to record the whole conveyance or discharge.**

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Textual Amendments

F24 S. 17 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 8\(7\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456, art. 2](#)

F25 **18 Instrument of resignation ad remanentiam unnecessary, but in place thereof conveyance in favour of superior may be recorded.**

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Textual Amendments

F25 S. 18 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 8\(7\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456, art. 2](#)

F26 **19 Notarial instruments in favour of general disponees.**

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Textual Amendments

F26 S. 19 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), [ss. 71, 77\(2\)](#), [sch. 12 para. 8\(7\)](#), **sch. 13 Pt. 1** (with [ss. 58, 62, 75](#)); [S.S.I. 2003/456, art. 2](#)

20 De praesenti words, or words of style, unnecessary in mortis causa deeds.

From and after the commencement of this Act it shall be competent to any owner of lands to settle the succession to the same in the event of his death, not only by conveyances de praesenti, according to the existing law and practice, but likewise by testamentary or mortis causa deeds or writings, and no testamentary or mortis causa deed or writing purporting to convey or bequeath lands which shall have been granted by any person alive at the commencement of this Act, or which shall be granted by any person after the commencement of this Act, shall be held to be invalid as a settlement of the lands to which such deed or writing applies on the ground that the grantor has not used with reference to such lands the word “dispone,” or other word or words importing a conveyance de praesenti; and where such deed or writing shall not be expressed in the terms required by the existing law or practice for the conveyance of lands, but shall contain with reference to such lands any word or words which would,

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if used in a will or testament with reference to moveables, be sufficient to confer upon the executor of the grantor, or upon the grantee or legatee of such moveables, a right to claim and receive the same, such deed or writing, if duly executed in the manner required or permitted in the case of any testamentary writing by the law of Scotland, shall be deemed and taken to be ^{F27}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]: Provided always, that nothing herein contained shall be held to confer any right to such lands on the successors of any such grantee or legatee who shall predecease the grantor, unless the deed or writing shall be so expressed as to give them such right in the event of the predecease of such grantee or legatee.

Textual Amendments

F27 Words substituted by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 37, Sch. 2 para. 8](#)

21 Trustee or executor to apply lands for purposes of trust or will.

Where such testamentary or mortis causa deed or writing shall be conceived in favour of a grantee as trustee or executor of the grantor, and shall not be expressed to be wholly in favour of such trustee or executor for his own benefit, such trustee or executor shall apply such whole lands for the purposes specified in such deed or writing; and where such purposes cannot, in whole or in part, be carried into effect, or where no purposes with reference to such lands have been or shall be specified in such deed or writing, such trustee or executor shall convey such lands, or so much thereof, or shall apply so much of the proceeds thereof, if such lands shall have been sold and realized by him, as may not be required for the purposes of such deed or writing, to or for behoof of the person or the successors of the person who, but for the passing of this Act and the granting of such deed or writing, would have been entitled to succeed to such lands on the death of such grantor.

22 ^{F28}

Textual Amendments

F28 S. 22, Sch. (M.) repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 48, Sch. 11 Pt. II](#)

^{F29}**23 Notarial instruments in favour of parties acquiring rights to unrecorded conveyances.**

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Textual Amendments

F29 S. 23 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(7\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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[^{F30}24 Mode of completing title by a judicial factor on a trust estate, &c.

Where in a petition to the Court of Session for the appointment of a judicial factor authority has been or shall be asked for the completion of a title by such factor to any lands forming the whole or part of the estate to be managed by such judicial factor, or where a judicial factor has applied or shall apply, by petition or note to the said Court, for authority to complete a title to such lands, either in his own person as judicial factor, or in the person of any [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act 1960] to whom he may have been appointed judicial factor, and where any petition or note has specified and described or shall specify and describe the lands to which such title is to be completed, or has referred or shall refer to the description of the same, in the form, or as nearly as may be in the form ^{F33}... of schedule (G.) hereto annexed, as the case may be, the warrant granted for completing such title shall also so specify and describe the lands to which such title is to be completed, or shall so refer to the description thereof; and such warrant shall be held to be a conveyance in due and common form of the lands therein specified in favour of such judicial factor granted by the person, whether in life or deceased, whose estate is under judicial management, or where the estate is that of a [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the ^{M3}Mental Health (Scotland) Act 1960] in whose person a title has not been made up, such warrant shall be held to be such a conveyance in favour of the [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act 1960] or of the judicial factor appointed to such [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the ^{M4}Mental Health (Scotland) Act 1960] as the case may be, granted by a predecessor or author having such title, or where such judicial factor has been or shall be appointed on an estate which shall have been vested in a trustee or former judicial factor, such warrant shall be held to be such a conveyance granted by such trustee or former factor, whether in life or deceased, for the purposes of such estate or trust, or factory ^{F33}... and such warrant may ^{F34}... be recorded in the appropriate register of sasines as a conveyance in favour of such judicial factor, or [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from [^{F35}mental or other incapacity]] or of the factor on his estate, and being so recorded shall have the same force and effect as if at the date of such recording such conveyance had been granted to the judicial factor, or [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act 1960] or the judicial factor appointed to such [^{F31}person under legal disability by reason of nonage], or [^{F32}person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act 1960] as the case may be, and recorded in the appropriate register of sasines: Provided always, that for enabling the person in whom such lands were last vested, or his representatives, or other parties interested, to bring forward competent objections against such warrant being granted, or claims upon the estate, the Court shall order such intimation and service of the petition or note as to them shall seem proper: Declaring always, that the whole enactments and provisions herein contained shall extend and apply to all petitions to and warrants by the Court of Session under [^{F36}the ^{M5}Trusts (Scotland) Act 1921] unless in so far as such provisions and enactments may be inapplicable to the form or objects of such petitions or warrants.]

Textual Amendments

F30 S. 24 substituted by Titles to [Land Consolidation \(Scotland\) Amendment Act 1869 \(c. 116\)](#), s. 3

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- F31** Words in s. 24 substituted (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10(1), 11(2), **Sch. 1 para. 19** (with s. 1(3))
- F32** Words substituted by Mental Health (Scotland) Act 1960 (c. 61), **Sch. 4**
- F33** Words repealed by Statute Law Revision Act 1893 (c. 14)
- F34** Words in s. 24 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(8), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F35** Words in s. 24 substituted (2.4.2001) by 2000 asp 4, s. 88(2), **Sch. 5 para. 5(1)**; S.S.I. 2001/81, art. 2, **Sch. 1**
- F36** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 17(2)(a)

Modifications etc. (not altering text)

- C3** S. 24 amended by Conveyancing (Scotland) Act 1924 (c. 27), s. 5(3)(b); applied *ibid.*, s. 24(6)

Marginal Citations

- M3** 1960 c. 61.
M4 1960 c. 61.
M5 1921 c. 58.

[^{F37}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.]

Textual Amendments

- F37** S. 25 substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 12 para. 8(9)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

26 Heritable property conveyed for religious or educational purposes to vest in disponees or their successors.

Wherever lands have been or may hereafter be acquired by any congregation, society, or body of men associated for religious purposes, or for the promotion of education, including the general assemblies, synods, and presbyteries of the Established Church of Scotland, and of all other Presbyterian churches in Scotland, as a chapel, meeting house, or other place of worship, or as a manse or dwelling house for the minister of such congregation or society or body of men, or offices, garden, or glebe for his use, or as a schoolhouse or schoolmaster's house, garden, or playground, or as a college, academy, or seminary, or as a hall or rooms for meeting for the transaction of business, or as part of the property belonging to such congregation, society, or body of men, and wherever the conveyance or lease of such lands has been or may be taken in favour of the moderator, minister, kirk session, vestrymen, deacons, managers, or other office bearers or office bearer of such congregation or society or body of men, or any of them, or of trustees appointed or to be from time to time appointed, or of any party or parties named in such conveyance or lease in trust for behoof of the congregation or society or body of men, or of the individuals comprising the same, such conveyance, when recorded ^{F38}... in terms of this Act, or such lease, shall not only vest the party or parties named therein in the lands, thereby ^{F38}... conveyed, or leased, but shall

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also, after the death or resignation or removal from office of such party or parties, or any of them, effectually vest their successors in office for the time being chosen and appointed in the manner provided or referred to in such conveyance or lease, or if no mode of appointment be therein set forth or prescribed, then in terms of the rules or regulations of such congregation or society or body of men, in such lands, subject to such and the like trusts and with and under the same powers and provisions as are contained or referred to in the conveyance or lease given and granted to the parties disponees or lessees therein, and that without any transmission or renewal of the investiture whatsoever, anything in such conveyance or lease contained to the contrary notwithstanding: And the provisions of this section shall apply also to all trusts for the maintenance, support, or endowment of ministers of religion, missionaries, or schoolmasters, or for the maintenance of the fabric of churches, chapels, meeting houses, or other places of worship, or of manses or dwelling houses or offices for ministers of the gospel, or of schoolhouses or schoolmasters houses, or other like buildings.

Textual Amendments

F38 Words in s. 26 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(10), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[^{F39}**26A Application for declarator of succession as heir in general or to specified lands**

On an application being made by any person having an interest, the Sheriff of Chancery may, if satisfied that—

- (a) such deceased person as may be specified in the application died before 10th September 1964 and that person either—
 - (i) was domiciled in Scotland at the date of his death; or
 - (ii) was the owner of lands situated in Scotland to which the application relates; and
- (b) the applicant, or as the case may be such person as may be specified in the application, has succeeded as heir to that deceased, and is either—
 - (i) heir in general; or
 - (ii) heir to such lands as may be specified in the application,

grant declarator that the applicant, or as the case may be such person as may be specified in the declarator, is the heir in general or heir to the lands so specified.]

Textual Amendments

F39 Ss. 26A-26C inserted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 68, 71, 77(2) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[^{F39}**26B Application for declarator of succession as heir to last surviving trustee under a trust**

On an application being made under this section, the Sheriff of Chancery may, if satisfied that—

- (a) such deceased person as may be specified in the application was the last surviving trustee named in, or assumed under, a trust;

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- (b) the trust provides for the heir of such last surviving trustee to be a trustee;
 - (c) either—
 - (i) the trust is governed by the law of Scotland; or
 - (ii) lands subject to the trust and to which the application relates are situated in Scotland; and
 - (d) the applicant has succeeded as heir to the deceased,
- grant declarator that the applicant is the heir of the deceased and accordingly is a trustee under the trust.]

Textual Amendments
F39 Ss. 26A-26C inserted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. [68](#), [71](#), [77\(2\)](#) (with ss. [58](#), [62](#), [75](#)); S.S.I. 2003/456, art. 2

[^{F39}26C Construction of reference to service of heir

A reference in any enactment or deed to a decree of service of heir (however expressed) shall include a reference to a declarator granted under section 26A or 26B of this Act.]

Textual Amendments
F39 Ss. 26A-26C inserted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. [68](#), [71](#), [77\(2\)](#) (with ss. [58](#), [62](#), [75](#)); S.S.I. 2003/456, art. 2

^{F40}27 Services to proceed by petition to the Sheriff.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. [71](#), [77\(2\)](#), [sch. 12 para. 8\(11\)](#), [sch. 13 Pt. 1](#) (with ss. [58](#), [62](#), [75](#)); S.S.I. 2003/456, art. 2

^{F40}28 Petition to be presented to the Sheriff of the county or to the Sheriff of Chancery.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. [71](#), [77\(2\)](#), [sch. 12 para. 8\(11\)](#), [sch. 13 Pt. 1](#) (with ss. [58](#), [62](#), [75](#)); S.S.I. 2003/456, art. 2

^{F40}29

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Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 **30**

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 **31** **Caveats to be received.**
.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 **32** **Petition of service to be equivalent to a brieve and claim.**
.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 **33** **Procedure before the Sheriff, and the effect of his judgment.**
.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 **34**

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F40 35 Competing petition may be presented, and Sheriff, after receiving evidence, give judgment.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 36 Recording and extract of judgment.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 37 The extract decree to be equivalent to an extract retour.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 38 Transmission of records.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

39 **F41**

Textual Amendments
F41 S. 39 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#); and expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2)(a)(c)(d), Sch. 12 Pt. 1 para. 8(11), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

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F40 40 No person entitled to oppose a service who could not appear against a brieve of inquest.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 41 Appeal for jury trial.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 42 Where Sheriff refuses to serve petitioner, &c., judgment may be reviewed.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 43 Procedure when a decree of service is brought under reduction.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 44 Forms and effect of procedure in the Court of Session.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F40 45 The Court of Session Act 1868, to apply to appeals and reductions, &c. under this Act.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 46 A decree of special service, besides operating as a retour, shall have the operation and effect of a disposition from the deceased to his heirs and assignees.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 47 A special service not to infer a general representation, either active or passive.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F40 48 Petitioner for special service may petition for general service.

.....

Textual Amendments

F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

49 **F42**

Textual Amendments

F42 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2)(a)(c)(d), Sch. 12 Pt. 1 para. 8(11), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

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F40 50 Jurisdiction of the Sheriff of Chancery.

.....

Textual Amendments
F40 Ss. 27-50 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(11), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

51 Power to the Court of Session to pass acts of sederunt.

It shall be competent to the ^{F43}... Court of Session and they are hereby authorized and required from time to time to pass such acts of sederunt as shall be necessary or proper for regulating in all respects the proceedings under this Act before the Sheriff of Chancery ^{F43}....

Textual Amendments
F43 Words in s. 51 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(12), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

52 F44

Textual Amendments
F44 Ss. 52, 54, 55, 151, 153, repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), **Sch. Pt. XIV**

53 F45

Textual Amendments
F45 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

54, 55. F46

Textual Amendments
F46 Ss. 52, 54, 55, 151, 153, repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), **Sch. Pt. XIV**

56, 57. F47

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Textual Amendments

F47 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

58 **F48**

Textual Amendments

F48 Ss. 58, 60, 61, 84–86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, [Sch. 3](#)

59 Unnecessary to libel and conclude for decree of special adjudication.

“Whereas it is inconvenient in practice to libel and conclude for general adjudication of lands as the alternative only of special adjudication, in terms of an Act of the Parliament of Scotland passed in the year one thousand six hundred and seventy-two:” It shall not be necessary to libel or conclude for special adjudication, and it shall be lawful to libel and conclude and decern for general adjudication without such alternative, anything in the said last-recited Act of the Parliament of Scotland, or in any other Act or Acts of the Parliament of Scotland or of Great Britain or of the United Kingdom of Great Britain and Ireland, to the contrary notwithstanding.

60, 61. **F49**

Textual Amendments

F49 Ss. 58, 60, 61, 84–86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, [Sch. 3](#)

[^{F50}62 Effect of a decree of adjudication or sale.

In all cases a decree of adjudication, whether for debt or in implement, or a decree of constitution and adjudication, whether for debt or in implement, if duly obtained in the form prescribed by this Act, or obtained, if prior to the commencement of this Act, in the form then in use, or a decree of declarator and adjudication, or a decree of sale, shall, except in the case where the subjects contained in the decree of adjudication, or of constitution and adjudication, or of declarator and adjudication, are heritable securities, be held equivalent to and shall have the legal operation and effect of a conveyance in ordinary form of the lands therein contained granted in favour of the adjudger or purchaser by the ancestor of such apparent heir, or by the owner or proprietor in trust or otherwise, and whether in life or deceased, of the lands adjudged, or by the seller of the lands sold, although [^{F51}under legal disability by reason of nonage] or [^{F52}mental or other incapacity] . . . ^{F53} and it shall be lawful and competent to such adjudger or purchaser to complete [^{F54}title by recording the decree as a conveyance or by using the decree as a midcouple or link of title.]]

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Textual Amendments

- F50** S. 62 which was substituted by [Conveyancing \(Scotland\) Act 1874 \(c. 94\)](#), **s. 62** is now repealed in so far as relating to any such decree as is therein mentioned obtained in relation to lands forming part of the estate of a deceased person by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, **Sch. 3**
- F51** Words in s. 62 substituted (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(1), 11(2), **Sch. 1 para. 20** (with s. 1(3))
- F52** Words in s. 62 substituted (2.4.2001) by 2000 asp 4, s. 88(2), **Sch. 5 para. 5(2)**; S.S.I. 2001/81, art. 2, **Sch. 1**
- F53** Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)
- F54** Words in s. 62 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(13)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 63 Signatures for Crown writs abolished.

.....

Textual Amendments

- F55** Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(14)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 64 Crown writs to be obtained by lodging a draft thereof and note along with the title deeds.

.....

Textual Amendments

- F55** Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(14)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 65 Draft Crown writ to be revised.

.....

Textual Amendments

- F55** Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(14)**, **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 66 Rectification of mistakes in former titles.

.....

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}67 †Intimation of proposed rectification to be made to solicitor for Commissioners of Woods and Forests.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}68 Presenter of signatures, &c. may refer to copy of writ when withheld.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}69 Amount of Crown duties to be fixed.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}70 Clerk’s fees.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}71 Copy of revised draft to be furnished to the party.

.....

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}72 **If no objections, the revised draft to be attested, and the Crown writ prepared.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}73 **Crown writs may be applied for at any time.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}74 **Objections, if any, to draft Crown writ to be by a note.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}75 **Objections, how to be disposed of.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}76 **Procedure if objections repelled.**

.....

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}77 **Refusal to revise, how to be complained of.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}78 **Crown writ as revised to be engrossed and delivered.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}79 **Crown writ to be valid.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

80— 82.

^{F56}

Textual Amendments

F56 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and ss. 80-82 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2)(a)(c)(d), Sch. 12 Pt. 1 para. 8(14), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

^{F55}83 †**Crown writs and Crown charters may be in the forms given in Schedule (T).**

.....

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

PROSPECTIVE

84—
86. ^{F55}

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}**87** **Register of Crown writs to be kept.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}**88** **†Crown charters or writs of novodamus, how to be obtained.**

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

89 ^{F57}

Textual Amendments

F57 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and s. 89 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2)(a)(c)(d), Sch. 12 Pt. 1 para. 8(14), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

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F5590 Writs to be in the English language.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F5591 Court of Session to frame regulations.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

92

F58

.....

Textual Amendments

F58 S. 92 repealed by [Statute Law Revision Act 1875](#) (c. 66); and s. 92 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(1)(2), 77(2)(a)(c)(d), Sch. 12 Pt. 1 para. 8(14), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

F5593 Power to Prince and Steward of Scotland to appoint his own presenter of signatures, &c.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

94, 95.

F59

.....

Textual Amendments

F59 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893](#) (c. 14); and ss. 94, 95 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

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F55 96 Substitute to be appointed to Sheriff of Chancery, &c. in event of absence or disability.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

97— F60
99.

Textual Amendments

F60 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T.) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and ss. 97-99 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

F55 100 All writs and charters from subject superior may refer tenendas and reddendo.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

101— F61
103.

Textual Amendments

F61 Ss. 58, 60, 61, 84-86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, **Sch. 3**; and ss. 101-103 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

F55 104 Where subject superior’s title incomplete, owner may in certain cases apply to Lord Ordinary on the Bills to ordain superior to complete his title and grant an entry under pain of forfeiture.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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- ^{F55}**105** Owner may in such case apply to Lord Ordinary on Bills to authorize application for an entry by the Crown or mediate over superior as in vice of the recusant superior.
-

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

- ^{F55}**106** Lands to be held temporarily of the Crown or mediate superior.
-

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

- ^{F55}**107** The party in right of the superiority may lodge a minute tendering relinquishment of his right, and if accepted by the petitioner the Lord Ordinary may interpose his authority.
-

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

- ^{F55}**108** Over superior's rights not to be extended or affected.
-

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

- ^{F55}**109** Vassal obtaining or accepting forfeiture or relinquishment of superiority to be liable for its value, but forfeiture, &c. not to infer representation.
-

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 110 Mode of relinquishing superiorities.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 111 Investiture by over superior.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 112 Applications of price of entailed superiorities.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 113 Providing for payment in lieu of casualties of superiority in case of lands conveyed for religious purposes.

.....

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55} 114 †Writs of confirmation &c. by subject superiors to be tested.

.....

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Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

115

F62

Textual Amendments

F62 Ss. 16, 49, 53, 56, 57, 80–82, 89, 94, 95, 97–99, 115, Schs. (E.), (I.), (R.), (T) Nos.1, 3, (V.), (AA.) Nos. 1, 2 repealed by [Statute Law Revision Act 1893 \(c. 14\)](#); and s. 115 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

^{F55} **116 †Stamp duty on writs of confirmation, &c. 1857 c. 26.**

Textual Amendments

F55 Ss. 63-116 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(14), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[^{F63} **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.]

Textual Amendments

F63 S. 117 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 8(15)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F64} **118 Bonds and dispositions in security may be granted in the form No. 1. of Schedule (FF.)**

Textual Amendments

F64 S. 118 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(16), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F65} **119 Explanation of clauses in Schedule (FF.) No. 1.**

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Textual Amendments

F65 S. 119 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(16), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

120 Securities may be registered during lifetime of grantee, or title completed after his death.

Heritable securities^{F66} ... may be registered in the appropriate register of sasines at any time during the lifetime of the grantee, and shall in competition be preferred according to the date of the registration thereof^{F66}

Textual Amendments

F66 Words in s. 120 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(17), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F67}**121 Sale carried through in terms of this Act to be valid to the purchaser.**

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F67}**122 Creditors selling to count and reckon for the surplus of the price and to consign the same in the bank.**

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F67}**123 On sale, &c. lands to be disencumbered of the security.**

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F67 124 Securities to be transferred in the form prescribed.

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F68

.....

Textual Amendments

F68 Ss. 58, 60, 61, 84–86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, **Sch. 3**; and s. 125 expressed to be repealed (*prosp.*) by 2000 asp 5, ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

F67 126 Completion of title of executors, &c. of creditor dying intestate.

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F67 127 Executor nominate or disponee mortis causa may complete title by notarial instrument.

.....

Textual Amendments

F67 Ss. 121-127 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

128

F69

.....

Textual Amendments

F69 Ss. 58, 60, 61, 84–86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 37, **Sch. 3**

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[^{F70}**129 Adjudgers may complete their title by recording abbreviate of adjudication.**

In all cases of adjudication, whether for debt or in implement, or of constitution and adjudication whether for debt or in implement, in which the adjudger has obtained a decree of adjudication or of constitution and adjudication in the manner and to the effect provided by this Act, or in cases of declarator and adjudication, where the subjects contained in any such decree are heritable securities, it shall be competent for the adjudger to complete his title to such securities by recording either the abbreviate of adjudication or an extract of such decree in the appropriate register of sasines, in either of which cases he shall be in the same position as if an assignation of such heritable securities had been granted in his favour by the ancestor or person or creditor in trust or otherwise, and whether in life or deceased, whose estate is adjudged, and as if such assignation had been duly recorded in the appropriate register of sasines at the date of so recording such abbreviate or such extract decree.]

Textual Amendments

F70 S. 129 was substituted by [Conveyancing \(Scotland\) Act 1874 \(c. 94\), s. 65](#) and repealed so far as relating to actions of constitution and adjudication by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 37 Sch. 3](#)

^{F71}**130 Unregistered security or assignation to be available to executors, &c. of grantee.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(18\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F71}**131 Act not to affect liability of debtors on their lands.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(18\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F71}**132 How any heritable security may be renounced or discharged.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(18\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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^{F71}**133 Heritable security how restricted.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F71}**134 Act to apply to all heritable securities.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F71}**135 Parties may use the present forms if they see fit.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

136

^{F72}

Textual Amendments

F72 S. 136 repealed by Burgh Registers (Scotland) Act 1926 (c. 50), **Sch. 2**; and s. 136 expressed to be repealed (*prosp.*) by 2000 asp 5, ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. 1** (with ss. 58, 62, 75)

^{F71}**137 Act to apply to lands held by any description of tenure.**

.....

Textual Amendments

F71 Ss. 130-137 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(18), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

138 Short clauses of consent to registration may be used in any deed.

The short clauses of consent to registration for preservation, and for preservation and execution, contained in [^{F73}form No. 1] of schedule (B.) hereto annexed, when

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occurring in any deed or conveyance under this Act, or in any deed or writing or document of whatsoever nature, and whether relating to lands or not, shall unless specially qualified import a consent to registration and a procuratory of registration in the books of council and session, or other judges books competent, therein to remain for preservation; and also, if for execution, that [^{F74}, upon the issue of an extract containing a warrant for execution, all lawful execution shall pass thereon].

Textual Amendments

- F73** Words in s. 138 substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [sch. 14 para. 2](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F74** Words substituted by [Debtors \(Scotland\) Act 1987 \(c. 18, SIF 45:2\)](#), s. 108(1), [Sch. 6 para. 7](#)

Modifications etc. (not altering text)

- C4** S. 138 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, [Sch. 8 para. 15](#)

^{F75} **139**

Textual Amendments

- F75** S. 139 repealed (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(2), 11(2), [Sch. 2](#) (with s. 1(3)) and expressed to be repealed (1.8.1995) by [1995 c. 7, s. 14\(2\)](#), [Sch. 5](#) (with ss. 9(3)(5)(7), 13, 14(3))

140 Additional sheets may be added to writs.

In all cases where writs or deeds of any description are by this or any other Act permitted or directed to be engrossed on any conveyance or deed, it shall be competent, when necessary, to engross such deeds or writs on a sheet or sheets of paper, or of whatever other material the conveyance itself consists, added to such conveyance, provided that the engrossing of the deed or writ shall be commenced on some part of the conveyance or deed itself on which it is permitted or directed to be engrossed; and the first of such additional sheets shall be chargeable with the stamp duty applicable to the writ or deed partly engrossed thereon ^{F76}....

Textual Amendments

- F76** Words in s. 140 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(19\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F77} **141 †All deeds, &c. recorded in register of sasines to have warrants of registration endorsed, except certain burgage deeds.**

.....

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Textual Amendments

F77 S. 141 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(18\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C5 Unreliable Marginal Note.

142 Recording of conveyances in the register of sasines authorized.

All conveyances and deeds ^{F78}... authorized to be recorded in the register of sasines, may ^{F78}... be recorded at any time in the life of the person on whose behalf the [^{F79}application for registration of such conveyance or deed is made and on such application the conveyance or deed] shall be presented for registration [^{F80}and] when presented for registration shall be forthwith shortly registered in the minute books of the said register in common form, and shall with all due despatch be fully registered in the register books, and thereafter redelivered to the parties with certificates of due registration thereon, which shall specify the date of presentation, and the book and folios in which the engrossment has been made ^{F81}... and shall be probative of such registration, and when so registered shall in competition be preferable according to the date of registration, and the date of entry in the minute book shall be held to be the date of registration: Provided, that where two or more [^{F82}applications for registration of] deeds or conveyances ^{F83}... shall be received by the keeper of the register of sasines [^{F84}on the same day], the entries ^{F85}... in the presentment book and minute book [^{F86}for the conveyances or deeds in respect of which such applications are made] shall be of the same year, month, [^{F84}and day], and such deeds and conveyances shall be deemed and taken to be presented and registered contemporaneously; ^{F87}...

Textual Amendments

F78 Words in s. 142 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(20\)\(a\), sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F79 Words in s. 142 substituted (3.12.2004) by [The Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(Consequential Provisions\) Order 2004 \(S.S.I. 2004/535\), art. 1, sch. para. 2\(a\)](#)

F80 Word in s. 142 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), sch. 12 para. 8\(20\)\(b\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F81 Words repealed retrospectively by [Public Registers and Records \(Scotland\) Act 1950 \(14 Geo. 6 c. 11\), Sch.](#)

F82 Words in s. 142 inserted (3.12.2004) by [The Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(Consequential Provisions\) Order 2004 \(S.S.I. 2004/535\), art. 1, sch. para. 2\(b\)](#)

F83 Words repealed by [Land Registration \(Scotland\) Act 1979 \(c. 33\), Sch. 4](#)

F84 Words substituted by [Land Registration \(Scotland\) Act 1979 \(c. 33\), Sch. 2 para. 2](#)

F85 Word in s. 142 omitted (3.12.2004) by virtue of [The Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(Consequential Provisions\) Order 2004 \(S.S.I. 2004/535\), art. 1, sch. para. 2\(c\)](#)

F86 Words in s. 142 inserted (3.12.2004) by [The Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(Consequential Provisions\) Order 2004 \(S.S.I. 2004/535\), art. 1, sch. para. 2\(d\)](#)

F87 Words repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), Sch. 11 Pt. III](#)

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[^{F88}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.]

Textual Amendments

F88 S. 143 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(21\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F89}144 Recorded instruments not to be challenged on the ground of erasures.

.....

Textual Amendments

F89 Ss. 144-147 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(22\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F89}145 Not competent to challenge existing warrants of registration on certain grounds.

.....

Textual Amendments

F89 Ss. 144-147 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(22\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F89}146 Obligations appointed to be inserted in instruments of sasine shall be inserted in notarial instruments.

.....

Textual Amendments

F89 Ss. 144-147 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(22\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F89}147 Prohibition against sub-infeudation not to be affected.

.....

Textual Amendments

F89 Ss. 144-147 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(22\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F90

Textual Amendments

F90 S. 148 repealed by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\)](#), s. 75(2), [Sch. 8](#)

149

F91

Textual Amendments

F91 S. 149 repealed (1.8.1995) by [1995 c. 7, s. 14\(2\)](#), [Sch. 5](#)

F92 **150 Debts affecting lands exchanged for other lands to affect such other lands in lieu thereof.**

Textual Amendments

F92 Ss. 150-154 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(22), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

151

F93

Textual Amendments

F93 Ss. 52, 54, 55, 151, 153, repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XIV](#); and s. 151 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75)

F92 **152 Provision for lands in the burgh of Paisley held by booking tenure.**

Textual Amendments

F92 Ss. 150-154 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(22), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

153

F94

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Textual Amendments

F94 Ss. 52, 54, 55, 151, 153, repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XIV](#); and s. 153 expressed to be repealed (*prosp.*) by [2000 asp 5](#), ss. 76(2), 77(2)(a)(d), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75)

^{F92}**154 Official acts of town clerks and keepers of registers of sasines not to be affected by their personal interests in recorded writs.**

.....

Textual Amendments

F92 Ss. 150-154 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 8\(22\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F95}**155 Date on which inhibition takes effect**

- (1) An inhibition has effect from the beginning of the day on which it is registered unless the circumstances referred to in subsection (2) below apply.
- (2) Those circumstances are—
 - (a) a notice of inhibition is registered in the Register of Inhibitions;
 - (b) the schedule of inhibition is served on the debtor after that notice is registered; and
 - (c) the inhibition is registered before the expiry of the period of 21 days beginning with the day on which the notice is registered.
- (3) In those circumstances the inhibition has effect from the beginning of the day on which the schedule of inhibition is served.
- (4) A notice of inhibition must be in (or as nearly as may be in) the form prescribed.]

Textual Amendments

F95 S. 155 substituted (S.) (1.4.2008 for specified purposes, 22.4.2009 in so far as not already in force) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 149, 227\(3\)](#) (with s. 223); S.S.I. 2008/115, art. 3(4), [sch. 3](#) (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

Modifications etc. (not altering text)

- C6** S. 155 applied by S.I. 2005/3181, art. 141ZH(4) (as inserted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), 3)
- C7** S. 155 applied by 2002 c. 29, s. 396O(4) (as inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 5, 58\(1\)\(6\)](#); S.I. 2018/78, [reg. 3\(a\)](#))

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F96 156 Short form of letters of inhibition.

.....

Textual Amendments

F96 S. 156 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(22), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

157 No inhibition to have effect against acquirenda, unless in case of heir under entail or other indefeasible title.

No inhibition to be recorded from and after the thirty-first day of December one thousand eight hundred and sixty-eight shall have any force or effect as against any lands to be acquired by the person or persons against whom such inhibition is used after the date of recording such inhibition, or of recording the previous notice thereof prescribed by this Act, as the case may be: Provided always, that where such inhibition is used against a person or persons who shall thereafter succeed to any lands which, at the date of recording the inhibition or previous notice thereof, as the case may be, were destined to such person or persons by a deed of entail, or by a similar indefeasible title, then and in that case such inhibition shall affect the said person or persons in so far as regards the lands so destined, and to which he or they shall succeed as aforesaid, but no further.

Modifications etc. (not altering text)

C8 S. 157 modified (22.4.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 150(3), 227(3) (with s. 223); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

158 Inhibitions on depending summons to be recalled on petition to Lord Ordinary.

F97
.....

Textual Amendments

F97 S. 158 repealed (S.) (5.9.1994) by [S.I. 1994/1443](#), art. 3(2), **Sch. 4**

159 Litigiosity not to begin before date of registration of notice of summons.

[^{F98}(1)] It shall be competent to register in the general register of inhibitions a notice of any signeted summons of reduction of any conveyance or deed of or relating to lands, and in the register of adjudications a notice of any signeted summons of adjudication or of constitution and adjudication combined for debt or in security or in implement, which notice shall [^{F99}be in (or as nearly as may be in) the form prescribed]; and no summons of reduction, constitution, adjudication, or constitution and adjudication combined, shall have any effect in rendering litigious the lands to which such summons relates, except from and after the date of the registration of such notice.

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[^{F100}(2) A notice registered under subsection (1) on or after the date on which section 67 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (warrant to place a caveat) comes into force shall not have any effect in rendering litigious any land a title sheet for which is comprised in the Land Register of Scotland or in placing in bad faith any person acquiring such land.]

Textual Amendments

- F98** S. 159(1): s. 159 renumbered as s. 159(1) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 6(2)(a)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F99** Words in s. 159 substituted (1.4.2008 for specified purposes, 22.4.2009 in so far as not already in force) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 164(1), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(4), sch. 3 (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F100** S. 159(2) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 6(2)(b)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

- C9** S. 159 amended by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 44(6)

[^{F101}159A Registration of notice of summons of action of reduction

- (1) This section applies where a pursuer raises an action of reduction of a conveyance or deed of or relating to lands granted in breach of an inhibition.
- (2) The pursuer shall, as soon as is reasonably practicable after the summons in the action is signeted—
 - (a) register a notice of that signeted summons in accordance with section 159 of this Act; and
 - (b) ^{F102}... record in the Register of Sasines a copy of that notice.
- (3) Where a decree of reduction is not obtained in the action to which the notice relates, the pursuer shall, as soon as is reasonably practicable—
 - (a) register in the Register of Inhibitions; and
 - (b) ^{F103}... record in the Register of Sasines, a discharge of that notice in (or as nearly as may be in) the form prescribed.

[This section does not apply in relation to lands for which there is a title sheet in the ^{F104}(4) Land Register of Scotland.]

Textual Amendments

- F101** S. 159A inserted (1.4.2008 for specified purposes, 22.4.2009 in so far as not already in force) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 162, 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(4), sch. 3 (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F102** Words in s. 159A(2)(b) repealed (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 6(3)(a)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

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- F103** Words in s. 159A(3)(b) repealed (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 6(3)(a)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F104** S. 159A(4) inserted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 6(3)(b)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

[^{F105}159B Power of the Scottish Ministers to prescribe forms

- (1) In sections 155, 159 and 159A of this Act, “prescribed” means prescribed by the Scottish Ministers by regulations.
- (2) The power conferred on the Scottish Ministers to make regulations under subsection (1) above is exercisable by statutory instrument.
- (3) A statutory instrument containing regulations made under subsection (1) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

Textual Amendments

- F105** S. 159B inserted (1.4.2008 for specified purposes, 22.4.2009 in so far as not already in force) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 164(2), 227(3)** (with s. 223); S.S.I. 2008/115, art. 3(4), sch. 3 (with arts. 4-6, 10, 15) (as amended: (23.2.2009) by S.S.I. 2009/67, art. 7; (31.1.2011) by S.S.I. 2011/31, art. 5(a); and (4.10.2014) by S.S.I. 2014/173, arts. 1(2), 3); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))

160

^{F106}

Textual Amendments

- F106** Ss. 58, 60, 61, 84–86, 101–103, 125, 128, 160, Schs. (U.), (W.), (DD.), (EE.), (II.) repealed by Succession (Scotland) Act 1964 (c. 41), s. 37, **Sch. 3**

[^{F107}161 Judgment of Lord Ordinary on the Bills subject to review of Inner House, and judgments in certain cases to be final.

.....

Textual Amendments

- F107** Ss. 161-163 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 8(22), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[^{F107}162 Court of Session may fix and regulate fees.

.....

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Textual Amendments

F107 Ss. 161-163 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(22), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F107}163 Old forms of conveyances may be used.

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Textual Amendments

F107 Ss. 161-163 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 8(22), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Status:

Point in time view as at 31/01/2018. This version of this Act contains provisions that are prospective.

Changes to legislation:

Titles to Land Consolidation (Scotland) Act 1868 is up to date with all changes known to be in force on or before 16 August 2023. 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.