



# Titles to Land Consolidation (Scotland) Act 1868

## CHAPTER 101

### TITLES TO LAND CONSOLIDATION (SCOTLAND) ACT 1868

- 1 Short Title.
- 2 Commencement of Act.
- 3 Interpretation of Terms.
- 4 Acts specified in Schedule (A.) repealed.
- 5 In Conveyances of Land, &c. not held Burgage, certain Clauses may be inserted in the short Forms given in Schedule (B.) No. 1.
- 6 Import of Clause expressing Manner of holding.
- 7 In Conveyances of Burgage Property certain Clauses may be inserted in the Forms given in Schedule (B.) No. 2.
- 8 Import of Clauses in Schedule (B.) No. 1. & 2.
- 9 Conditions of Entail may, in Conveyances of Entailed Lands, be inserted by Reference merely.
- 10 Real Burdens may be referred to as already in the Register of Sasines.
- 11 Description of Lands contained in recorded Deeds may be inserted in subsequent Writs by Reference merely.
- 12 Clause directing Part of Conveyance to be recorded.
- 13 Several Lands conveyed by the same Deed may be comprehended under One general Name.
- 14 Certain Clauses in Entails no longer necessary.
- 15 Instrument of Sasine no longer necessary, but Conveyance may be recorded instead.
- 16 Mode of expeding Sasine in Lands holden Burgage.
- 17 Not necessary to record the whole Conveyance or Discharge.
- 18 Instrument of Resignation ad remanentiam unnecessary, but in place thereof Conveyance in favour of, Superior may be recorded.

- 19 Notarial Instruments in favour of general Disponees.
- 20 De præsenti Words, or Words of Style, unnecessary in mortis causa Deeds.
- 21 Trustee or Executor to apply Lands for Purposes of Trust or Will.
- 22 Assignations to unrecorded Conveyances.
- 23 Notarial Instruments in favour of Parties acquiring Rights to unrecorded Conveyances.
- 24 Mode of completing Title by a Judicial Factor on a Trust Estate, &c.
- 25 Mode of completing Title by a Trustee in Sequestration, and by Liquidators of Joint Stock Companies.
- 26 Heritable Property conveyed for religious or educational Purposes to vest in Disponees or their Successors.
- 27 Services to proceed by Petition to the Sheriff.
- 28 Petition: to-be presented to the Sheriff of the County or to the Sheriff of Chancery.
- 29 Nature and Form of Petition.
- 30 Services not to proceed till Publication be made.
- 31 Caveats to be received.
- 32 Petition of Service to be equivalent to a Brieve and Claim.
- 33 Procedure before the Sheriff, and the Effect of his Judgment.
- 34 Case where Domicile of Party is unknown.
- 35 Competing Petition may be presented, and Sheriff, after receiving Evidence, give Judgment.
- 36 Recording and Extract of Judgment.
- 37 The Extract Decree to be equivalent to an Extract Retour.
- 38 Transmission of Records.
- 39 Clerks of Chancery to be remunerated for keeping Register, &c, by Act of Sederunt.
- 40 No Person entitled to oppose a Service who could not appear against a Brieve of Inquest.
- 41 Appeal for Jury Trial.
- 42 Where Sheriff refuses to serve Petitioner, &c., Judgment may be reviewed.
- 43 Procedure when a Decree of Service is brought under Reduction. Effect of the Decree of Reduction.
- 44 Forms and Effect of Procedure in the Court of Session.
- 45 " Court of Session Act, 1868 ", to apply to Appeals and Reductions, &c. under this Act.
- 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.
- 47 A Special Service not to infer a general Representation, either active or passive.
- 48 Petitioner for Special Service may petition for General Service.
- 49 A General Service may be applied for and obtained to a limited Effect by annexing a Specification ; and it shall infer only a limited passive Representation.
- 50 Jurisdiction of the Sheriff of Chancery.
- 51 Power to the Court of Session to pass Acts of Sederunt.
- 52 Appointment of Sheriff of Chancery.
- 53 Agents may practise before Sheriff Courts.
- 54 Salaries of Sheriff of Chancery and Sheriff Clerk of Chancery.

- 55 Salary to be regulated by the Commissioners of the Treasury on Vacancy.
- 56 Compensation already awarded not to be affected.
- 57 Compensation to be paid.
- 58 Provisions as to depending Petition for Service.
- 59 Unnecessary to libel and conclude for Decree of Special Adjudication.
- 60 General and Special and General Special Charges to be no longer necessary.
- 61 Actions of Constitution and Adjudication against Apparent Heir may be insisted in after the Lapse of Six Months.
- 62 Effect of a Decree of Adjudication or Sale.
- 63 Signatures for Crown Writs abolished.
- 64 Crown Writs to be obtained by lodging a Draft thereof and Note along with the Title Deeds.
- 65 Draft Crown Writ be revised.
- 66 Rectification of Mistakes in former Titles.
- 67 Intimation of proposed Rectification to be made to Solicitor for Commissioners of Woods and Forests.
- 68 Presenter of Signatures, &c. may refer to Copy of Writ when withheld.
- 69 Amount of Crown Duties to be fixed.
- 70 Clerk's Fees.
- 71 Copy of revised Draft to be furnished to the Party.
- 72 If no Objections, the revised Draft to be attested, and the Crown Writ prepared.
- 73 Crown Writs may be applied for at any Time.
- 74 Objections, if any, to Draft Crown Writ to be by a Note.
- 75 Objections, how to be disposed of.
- 76 Procedure if Objections repelled.
- 77 Refusal to revise, how to be complained of.
- 78 Crown Writ as revised to be engrossed and delivered.
- 79 Crown Writ to be valid.
- 80 Ceremony of Resignation abolished.
- 81 Investiture by Resignation from the Crown.
- 82 Investiture by Confirmation from the Crown.
- 83 Crown Writs and Crown Charters may be in the Forms given in Schedule (T).
- 84 Crown Writs or Precepts to Heirs specially served, how to be obtained.
- 85 Crown Writs or Precepts of Clare constat may also be granted to Heirs holding only a General Service.
- 86 Crown Writs or Precepts of Clare constat to be null unless, recorded before First Term after being issued. Fees to be paid to Sheriffs and Sheriff Clerks for a limited Period.
- 87 Register of Crown Writs to be kept.
- 88 Crown Charters or Writs of Novodamus, how to be obtained.
- 89 Lodging Drafts Crown Writ with Note, and recording Note, to be equivalent, in competition, to presenting a Signature and recording Abstract.
- 90 Crown Writs to be in the English Language.
- 91 Court of Session to frame Regulations.
- 92 Salary to be regulated by Commissioners of the Treasury, when Vacancy.
- 93 Power to Prince and Steward of Scotland to appoint his own Presenter of Signatures.

- 94 Compensation already awarded not to be affected.
- 95 Compensation, how to be paid.
- 96 Substitute to be appointed to Sheriff of Chancery or Presenter of Signatures in event of Absence or Disability.
- 97 Subject Superior may be compelled to grant Entries by Confirmation.
- 98 Confirmation by Subject Superior to be by Writ or Charter in Form of Schedule (V.) Nos. 1. and 2.
- 99 Investiture by Resignation from Subject Superior.
- 100 All Writs and Charters from Subject Superior may refer Tenendas and Reddendo.
- 101 Precepts and Writs of Clare constat from Subject Superior.
- 102 Heir in Burgage Subjects may make up Title by Writ of Clare constat.
- 103 Writs of Clare constat from Subject Superiors, &c. not to fall by Death of the Grantor.
- 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.
- 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.
- 106 Lands to be held temporarily of the Crown or mediate Superior.
- 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.
- 108 Over Superior's Rights not to be extended or affected.
- 109 Vassal obtaining or accepting Forfeiture or Relinquishment of Superiority to be liable for its Value, but Forfeiture or Relinquishment not to infer Representation.
- 110 Mode of relinquishing Superiorities.
- 111 Investiture by Over Superior.
- 112 Applications of Price of Entailed Superiorities. Price of Superiorities of Entailed Lands may be charged on the Entailed Estate.
- 113 Providing for Payment in lieu of Casualties of Superiority in case of Lands conveyed for Religious Purposes.
- 114 Writs of Confirmation, &c. by Subject Superiors to be tested.
- 115 Charters and Writs to operate as Confirmation of all prior Conveyances, &c.
- 116 Stamp Duty on Writs of Confirmation, &c.
- 117 Heritable Securities to form Moveable Estate ; except where conceived in favour of Heirs, excluding Executors, and quoad fiscum. Not to belong to Husband jure mariti, nor to Wife jure relictæ. Nor to be computed in Legitim.
- 118 Bonds and Dispositions in Security may be granted in the Form No. 1. of Schedule (FF.)
- 119 Explanation of Clauses in Schedule (FF.) No. 1. Clauses reserving Right of Redemption, and of Obligation to pay Expense of Assignation or Discharge and Power of Sale, valid, &c.
- 120 Securities may be registered during Lifetime of Grantee, or Title completed after his Death.
- 121 Sale carried through in Terms of this Act to be valid to the Purchaser.
- 122 Creditors selling to count and reckon for the Surplus of the Price and to consign the same in the Bank.

- 123 On Sale and Consignation of Surplus, Lands to be disencumbered of the Security.
- 124 Securities to be transferred in the Form prescribed. When Conveyance of Heritable Security is contained in a general Deed of Conveyance, the whole such Deed need not be recorded.
- 125 Completion of Title of Executors or Executor nominate, or Disponee or Legatee of an Heritable Security, or of Heir where Executors excluded.
- 126 Completion of Title of Executors, &c. of Creditor dying intestate.
- 127 Executor nominate or Disponee mortis causa may complete Title by Notarial Instrument.
- 128 Form of completing Title of Heir where Executors are excluded.
- 129 Adjudgers may complete their Title by recording Abbreviate of Adjudication.
- 130 Unregistered Security or Assignment to be available to Executors, &c. of Grantee.
- 131 This Act not to affect Liability of Debtors on their Lands.
- 132 How any Heritable Security may be renounced or discharged.
- 133 Heritable Security how restricted.
- 134 Act to apply to all Heritable Securities.
- 135 Parties may use the present Forms if they see fit.
- 136 Fees to be taken by Town Clerks of Royal Burghs and Keepers of Registers in Office at 1st Oct. 1845, during their respective Eights of Office, &c.
- 137 This Act to apply to Lands held by any Description of Tenure.
- 138 Short Clauses of Consent to Registration may be used in any Deed.
- 139 Females may act as instrumentary Witnesses.
- 140 Additional Sheets may be added to Writs.
- 141 All Deeds, &c. recorded in Register of Sasines to have War rants of Registration endorsed except certain Burgage Deeds.
- 142 Recording of Conveyances in the Register of Sasines authorized.
- 143 Conveyances and Instruments may be recorded of new.
- 144 Recorded Instruments not to be challenged on the ground of Erasures.
- 145 Not competent to challenge existing Warrants of Registration on certain Grounds.
- 146 Obligations appointed to be inserted in Instruments of Sasine shall be inserted in Notarial Instruments.
- 147 Prohibition against Subinfeudation not to be affected.
- 148 In all Questions under the Bankrupt Acts in *Scotland*, the Dates of Registration of Assignations, &c. to be held to be the Dates of the Instruments.
- 149 Deeds and Instruments maybe partly written and partly printed or engraved.
- 150 Debts affecting Lands exchanged for other Lands to affect such other Lands in lieu thereof.
- 151 Provision for Lands held Burgage where no Burgh Register of Sasines is kept.
- 152 Provision for Lands in the Burgh of Paisley held by Booking Tenure.
- 153 Fees of Town Clerks appointed prior to 8th March 1860 reserved, but no Town Clerks appointed after that Date to have Claims for Compensation for Loss of Fees, &c.
- 154 Official Acts of Town Clerks and Keepers of Registers of Sasines not to be affected by their personal Interests in recorded Writs.
- 155 Inhibitions to take effect from Date of Registration of Notice, &c.

- 156 Short Form of Letters of Inhibition
- 157 No Inhibition to have Effect against Acquirenda, unless in case of Heir under Entail or other indefeasible Title.
- 158 Inhibitions on Depending Summons to be recalled on Petition to Lord Ordinary.
- 159 Litigiousity not to begin before Date of Registration of Notice of Summons.
- 160 Eight to Heirship Moveables abolished.
- 161 Judgment of Lord Ordinary on the Bills subject to Review of Inner House, and Judgments in certain Cases to be final.
- 162 Court of Session may fix and regulate Fees.
- 163 Old Forms of Conveyances may be used.

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SCHEDULES referred to in foregoing Act.

SCHEDULE (A.) —

No. 1 — ACTS AND PART OF ACT REPEALED.

No. 2. — CAP. XXXV.

SCHEDULE (B.) —

SCHEDULE (C.) —

SCHEDULE (D.) —

SCHEDULE (E.) —

SCHEDULE (F.) —

SCHEDULE (G.) —

SCHEDULE (H.) —

SCHEDULE (I.) —

SCHEDULE (J.) —

SCHEDULE (K.) —

SCHEDULE (L.) —

SCHEDULE (M.) —

SCHEDULE (N.) —

SCHEDULE (O.) —

SCHEDULE (P.) —

SCHEDULE (Q.) —

- SCHEDULE (R.) — Form for a General Service where it is to be limited in its Effects by a Specification annexed.
- SCHEDULE (S.) —
- SCHEDULE (T.) —
- SCHEDULE (U.) —
- SCHEDULE (V.) —
- SCHEDULE (W.) —
- SCHEDULE (X.) —
- SCHEDULE (Y.) —
- SCHEDULE (Z.) —
- SCHEDULE (AA.) —
- SCHEDULE (BB.) —
- SCHEDULE (CC.) —
- SCHEDULE (DD.) —
- SCHEDULE (EE.) —
- SCHEDULE (FF.) —
- SCHEDULE (GG.) —
- SCHEDULE (HH.) —
- SCHEDULE (II.) —
- SCHEDULE (JJ.) —
- SCHEDULE (KK.) —
- SCHEDULE (LL.) —
- SCHEDULE (MM.) —
- SCHEDULE (NN.) —
- SCHEDULE (OO.) —
- SCHEDULE (PP.) —
- SCHEDULE (QQ.) —

SCHEDULE (RR.) —