



Conveyancing (Scotland) Act 1874

1874 CHAPTER 94 37 and 38 Vict

An Act to amend the law relating to land rights and conveyancing, and to facilitate the transfer of land, in Scotland. [7th August 1874]

Modifications etc. (not altering text)

- C1 Act amended by [Conveyancing \(Scotland\) Acts \(1874 and 1879\) Amendment Act 1887 \(c. 69\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)
- C3 Words of enactment and certain other words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#) and [Statute Law Revision Act 1898 \(c. 22\)](#)

1 Short title.

This Act may be cited for all purposes as “The Conveyancing (Scotland) Act, 1874.”

2 Commencement of Act.

This Act shall, except where otherwise provided, come into operation on the first day of October one thousand eight hundred and seventy-four, which date is herein-after referred to as the commencement of this Act.

3 Interpretation.

The following words and expressions in this Act shall have the several meanings hereby assigned to them; that is to say,

“Land” or “lands” shall include all subjects of heritable property which are or may be held of a superior according to feudal tenure, or which prior to the commencement of this Act have been or might have been held by burgage tenure, or by tenure of booking:

“Estate in land” shall mean any interest in land, whether in fee, life-rent, or security, and whether beneficial or in trust, or any real burden on land, and shall include an estate of superiority:

Status: Point in time view as at 08/11/1995.

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“Superior” shall include the Crown, the Prince and Steward of Scotland, and all subject superiors, and shall also include mid-superiors; “superiority” shall include mid-superiority:

“Conveyance” and “deed” and “instrument” shall each have the meaning attached thereto by the ^{M1}Titles to Land Consolidation (Scotland) Act, 1868, and the ^{M2}Titles to Land Consolidation (Scotland) Amendment Act, 1869, and shall also, when used in this Act, include all the deeds, instruments, decrees, petitions, and writings specified in this Act, and the words “heritable securities” and “securities” shall have the meaning attached thereto by the said recited Acts, and shall also, when used in this Act, include real burdens and securities by way of ground annual:

“Infertment” shall include every title to an estate in land requiring and admitting of infertment which is duly recorded in the appropriate register of sasines:

“Feu” shall include “blench,” and “feu-duty” shall include “blench duty”:

“Casualties” shall include the relief duty payable on the entry or succession of an heir, the composition or other duty payable on the entry of a singular successor, whether by law or under the conditions of the feu, and all payments exigible in lieu of such duties and compositions, and all periodical fixed sums or quantities which may be stipulated for under this Act:

“Sheriff” shall include . . . ^{F1} sheriff substitute . . . ^{F1}

Textual Amendments

F1 Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

Modifications etc. (not altering text)

C4 S. 3 modified by [Conveyancing \(Scotland\) Act 1924 \(c. 27\), s. 2\(1\)](#)

Marginal Citations

M1 [1868 c. 101.](#)

M2 [1869 c. 116.](#)

4 **Renewal of investiture abolished. Infertment to imply entry with superior. Implied entry not to affect rights of superiors to feu-duties, &c. Action in lieu of a declarator of non-entry.**

When lands have been feued, whether before or after the commencement of this Act:—

- (1) It shall not, notwithstanding any provision, declaration, or condition to the contrary in any statute in force at the passing of this Act, or in any deed, instrument, or writing, whether dated before or after the passing of this Act, be necessary, in order to the completion of the title of any person having a right to the lands in whole or in part, whether such right shall have been acquired by succession, bequest, gift, or conveyance, that he shall obtain from the superior any charter, precept, or other writ by progress; and it shall not be competent for the superior in any case to grant any such charter, precept, or other writ by progress: Provided always, that nothing in this Act contained shall prevent the granting of charters of novodamus or precepts or writs from Chancery . . . ^{F2}:

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- (2) Every proprietor who is at the commencement of this Act or thereafter shall be duly infeft in the lands shall be deemed and held to be, as at the date of the registration of such infeftment in the appropriate register of sasines, duly entered with the nearest superior whose estate of superiority in such lands would according to the law existing prior to the commencement of this Act have been not defeasible at the will of the proprietor so infeft, to the same effect as if such superior had granted a writ of confirmation according to the existing law and practice, and that whether the superior's own title or that of any over superior has been completed or not, but such implied entry shall not be held to confer or confirm any rights more extensive than those contained in the original charter or feu right of the lands or in the last charter or other writ by which the vassal was entered therein: Provided always, that nothing herein contained shall be held to validate any subfeu in cases where subinfeudation has been effectually prohibited; and provided further that notwithstanding such implied entry, the proprietor last entered in the lands, and his heirs and representatives, shall continue personally liable to the superior for payment of the whole feu-duties affecting the said lands, and for performance of the whole obligations of the feu, until notice of the change of ownership of the feu shall have been given to the superior; but without prejudice to the superior having all his remedies against the entered proprietor under the entry implied by this Act, and without prejudice also to the right of the proprietor last entered in the lands and his foresaids to recover from the entered proprietor of the lands all feu-duties which such proprietor last entered in the lands or his foresaids may have had to pay in consequence of any failure or omission to give such notice; and for this purpose all the remedies competent to the superior for recovery of feu-duties shall by virtue of this Act be held to be assigned to the proprietor last entered in the lands and his foresaids to the effect of enabling them to recover payment of any sums so paid by them as aforesaid, but that always under reservation of, and without prejudice to the superior's rights, remedies and securities for making effectual and recovering all other feu-duties due and to become due to him; and such notice may be in the form of Schedule A. hereto annexed, or as nearly in that form as the circumstances in each particular case will permit. In the event of the proprietor last entered in the lands or his foresaids desiring to preserve evidence of his or their having sent such notice, it shall be sufficient if a copy of such notice, certified by the sender thereof as having been delivered or put into the post office by him in presence of two witnesses, who shall also subscribe the certificate, is preserved, or that the notice is acknowledged by the superior or his agent to have been received, either on a duplicate thereof or by a separate acknowledgment, and the superior or his agent on receiving such intimation in duplicate, with a fee of five shillings, shall, if required, be bound to return one of the copies with an acknowledgment of intimation thereon subscribed by him:
- (3) Such implied entry shall not prejudice or affect the right or title of any superior to any casualties, feu-duties, or arrears of feu-duties which may be due or exigible in respect of the lands, at or prior to the date of such entry; and all rights and remedies competent to a superior under the existing law and practice or under the conditions of any feu right, for recovering, securing, and making effectual such casualties, feu-duties, and arrears, or for irritating the feu ob non solutum canonem, and all the obligations and conditions in the feu rights prestable to or exigible by the superior, in so far as the same may not have ceased to be operative in consequence of the provisions of this Act or otherwise, shall continue to be available to such superior in time coming; but provided always, that such implied entry shall not entitle any superior to demand any casualty sooner than he could, by the law prior to this Act or by the conditions of the feu right, have required the vassal to enter or to pay such casualty irrespective of his entering:

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- (4) No lands shall, after the commencement of this Act, be deemed to be in non-entry, but a superior who would but for this Act be entitled to sue an action of declarator of non-entry against the successor of the vassal in the lands, whether by succession, bequest, gift, or conveyance, may raise in the Court of Session against such successor, whether he shall be infeft or not, an action of declarator and for payment of any casualty exigible at the date of such action, and no implied entry shall be pleadable in defence against such action; and any decree for payment in such action shall have the effect of and operate as a decree of declarator of non-entry, according to the now existing law, but shall cease to have such effect upon the payment of such casualty, and of the expenses (if any) contained in said decree; but such payment shall not prejudice the right or title of the superior to the rents due for the period while he is in possession of the lands under such decree nor to any feu-duties or arrears thereof which may be due or exigible at or prior to the date of such payment, or the rights and remedies competent to him under the existing law and practice for recovering and securing the same; and the summons in such action may be in or as nearly as may be in the form of Schedule B. hereto annexed.

Textual Amendments

F2 Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#)

5 Compositions payable by corporations or trustees or persons having separate interests.

Unless where it has been or shall be otherwise stipulated, corporations shall pay at the date at which the first composition would have been payable if this Act had not been passed, and every twenty-fifth year thereafter, a sum equal to what, but for the passing of this Act, would have been payable on entry by a singular successor; and where a composition payable on the death of the vassal shall become exigible from any trustee or body of trustees, another composition shall be payable at the end of every twenty-five years, so long as the lands shall be vested in such trustee or trustees; and where, by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property, as well as on the occasion of the death of each vassal, and a composition shall in consequence of the acquisition of the property become exigible from any corporation or from any trustee or body of trustees, another composition, unless where it has been or shall be otherwise stipulated, shall be payable at the end of every fifteen years from the date of such acquisition by such corporation or trustee or trustees, so long as the lands shall be vested in such corporation or trustee or trustees, with such interest, if any, as may be stipulated for in the feu rights during the not payment of casualties: Provided always, that in the event of such corporation or of such trustee or trustees ceasing to be proprietors of the lands after having paid a composition or compositions in terms of this section the successor of such corporation or of such trustee or trustees who shall be duly infeft in the lands at the expiration of twenty-five years where a composition is payable on the death of the vassal, or at the expiration of fifteen years where a composition is payable on the occasion of each sale or transfer as well as on the occasion of each death, from the date of the last payment of composition as aforesaid, shall then pay a composition, and the casualties for and in respect of such lands shall thereafter become due and payable at the same time and in the same manner as if such lands had never been vested in such corporation or in such trustee or trustees; and where, by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property

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as well as on the occasion of the death of each vassal, and where an entry is implied in the terms of this Act in favour of two or more parties having separate interests as life-renter and fiar respectively or as successive life-renters, a composition, or in the case of parties interested pro indiviso a rateable share of a composition, shall be due by and exigible from each of the parties who shall take or derive benefit under the implied entry in the order in which they shall severally take or derive benefit under such implied entry, with such interest, if any, as may be stipulated for in the feu right during the not payment of casualties.

6 Consolidation of superiority with property.

When a superior has acquired and completed or shall acquire and complete a title by infeftment to the property or mid-superiority of lands, or where the proprietor of the property or of the mid-superiority has acquired and completed or shall acquire and complete a title by infeftment to the superiority, a minute in the form, or as nearly as may be in the form of Schedule C. hereto annexed, shall, when recorded in the appropriate register of sasines, be held to consolidate the property or the mid-superiority, as the case may be, with the superiority, all to the same effect as consolidation effected by resignation ad perpetuam remanentiam duly completed according to the present law and practice.

Modifications etc. (not altering text)

C5 S. 6 applied by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 11(1)

7 Consolidation not to affect or extend superior's rights.

No consolidation that may be effected under this Act or otherwise shall in any way affect or extend the rights or interests of any over superior, or entitle him to any more than the duties or casualties to which he would have been entitled had there been no consolidation.

8 Memorandum of allocation of feu-duty.

Where a proprietor desires to obtain the benefit of any provision as to allocation of feu-duty, or where the superior agrees to an allocation of the feu-duty contained in the original grant with or without augmentation, such proprietor may, either before or after the deed in his favour is recorded in the appropriate register of sasines, obtain a memorandum endorsed thereon in or as nearly as may be in the form of Schedule D. hereto annexed, and the allocation contained in such memorandum shall be binding on all having interest: Provided always, that such allocation shall not prejudice or affect the rights of heritable creditors who are not parties thereto.

9#13 F3

Textual Amendments

F3 Ss. 9-13, 31, 43, 46, 63, Sch. E repealed (28.11.2004) with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#) (and subject to an amendment by [2000 asp 5](#); words in s. 10 (as saved (S.) by s. 37(1)(d) of the said Succession (Scotland) Act) are expressed to be substituted (S.) (28.11.2004) by

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2000 asp 5, ss. 76(1), 77(2)(a), **Sch. 12 Pt. 1 para. 9(4)(a)(c)(e)** (with ss. 58, 62, 75); SSI 2003/456, art. 2 and words in s. 10 repealed (S.) (1.11.1996) by S.I. 1996/2184, para. 3, **Sch. 2** and expressed to be repealed (S.) (28.11.2004) by 2000 asp 5, ss. 76(1)(2), 77(2)(a)(d), **Sch. 12 Pt. 1 para. 9(4)(a)(c)**, **Sch. 13 Pt. 1** (with ss. 58, 62, 75); SSI 2003/456, art. 2; Words in s. 10 expressed to be repealed (28.11.2004) by 2000 asp 5, ss. 71, 77(2), **Sch. 12 Pt. 1 para. 9(4)(a)(c)(e)****Sch. 13 Pt. 1**(with ss. 58, 62, 75); SSI 2003/456, art. 2 and words in s. 10 expressed to be substituted (28.11.2004) by 2000 asp 5, ss. 71, 77(2), **Sch. 12 Pt. 1 para. 9(4)(b),d(i)(ii)**, (with ss. 58, 62, 75); SSI 2003/456, art. 2

14 Legal remedies to prevent entry preserved.

Nothing herein contained shall prejudice or affect the legal remedies of any person having lawful title and interest to prevent any other person from entering into possession of an estate in land as heir, or to remove him from possession, or to obtain sequestration of such estate, or the appointment of a judicial factor pending the trial of any question regarding the right of succession; and it shall be lawful for a court of competent jurisdiction to regulate possession pending such trial, as the court shall see just, notwithstanding the completion, under this Act, of the title of any person as heir.

15— F4
17.

Textual Amendments

F4 Ss. 15–17, 23, repealed by **Feudal Casualties (Scotland) Act 1914 (c. 48)**, **Sch. E** and expressed to be repealed (*prosp.*) by 2000 asp 5, ss. 76(2), 77(2)(d), **Sch. 13 Pt. 1**

18 Entails not to bar redemption.

Casualties subject to the fetters of an entail may be redeemed as aforesaid notwithstanding such entail, the redemption money being consigned in one of the banks in Scotland incorporated by Royal Charter or Act of Parliament in name of the accountant of the Court of Session, who shall be allowed a reasonable fee for his trouble out of such money, and being applied by the heir of entail in possession under the orders of the said court for the benefit of the entailed estate, the accruing interest being payable to the heir of entail in possession during the time the same shall arise; provided always, that when the redemption money so consigned during any period of three years shall not exceed in whole the sum of one hundred pounds, the same may at the end of that period be paid over by the accountant for the time, without orders or authority from the court, to the person or persons or the representatives of the person or persons in possession of the entailed estate at the time or times when the consignment or consignments was or were respectively made . . . F5

Textual Amendments

F5 Words repealed by **Feudal Casualties (Scotland) Act 1914 (c. 48)**, **Sch. E**

19 Redemption of casualties by a mid-superior.

The person in right of any estate of superiority created prior to the commencement of this Act shall be entitled to redeem the casualties, legal or conventional, which may be

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payable to an over superior, in the same manner and on the same terms and conditions as are herein-before enacted with respect to the redemption of casualties by a person in right of an estate of property.

20 Commutation of carriages and services by agreement; or by sheriff.

Where carriages and services, or any of them, exigible by the superior, shall, for any period of five years, have been commuted to an annual money payment by agreement between the parties, whether reduced to writing or not, and whether express or implied from the conduct or actings of parties, and have not thereafter been exacted and performed, the said annual payment shall thereafter be deemed to be the value in all time coming of such carriages and services respectively, and the superior shall be bound to accept the same in lieu of such carriages and services respectively:

With respect to carriages and services which have not been so commuted, it shall be competent to either party to apply to the sheriff within whose jurisdiction the lands lie to determine summarily, the annual value thereof, and the determination of the sheriff shall be final and not subject to review, and the superior shall be bound thereafter to accept of the annual sum so determined in lieu of such carriages and services.

21 Commuted value to be feu-duty. Not barred by entails.

The annual money value, where ascertained as aforesaid by agreement, may be stated in a memorandum in the form set forth in the said Schedule G. hereto annexed, or in a similar form, signed by the parties or their respective agents, and on such memorandum or the extract decree pronounced by the sheriff, as the case may be, being recorded in the appropriate register of sasines, such annual money value shall be deemed to be feu-duty with all the legal qualities thereof, and shall form an addition to any existing feu-duty, and the superior's right to the carriages and services shall be held to be discharged. Such discharge, redemption, and commutation may be validly effected, notwithstanding the fetters of any entail.

22 Monopolies of superior's agents annulled.

All conditions, whether made before or after the commencement of this Act, to the effect that the superior shall be entitled to select or appoint an agent to prepare or record sasines or warrants of registration, or conveyances or other deeds having reference to any estate in land, or restraining or restricting the proprietor of any estate in land in the selection of an agent to prepare or record such sasines, warrants, conveyances, or other deeds, or securing any privilege or monopoly to the superior's agent, or to any agent or agents selected or appointed by him, or to the effect that any proprietor of lands shall be bound to intimate to the superior of such lands any change of ownership, whether by succession or singular title, except as herein-before provided, or to pay any fees or expenses in connexion with such change of ownership, and further all conditions made after the commencement of this Act, to the effect that it shall not be lawful to the proprietor of lands to subfeu the same to be holden of himself as immediate lawful superior thereof, or to grant conveyances thereof to be holden a me vel de me or with an alternative manner of holding, shall, with all irritant clauses applicable thereto, be null and void, and not capable of being enforced, and all enactments to the contrary of, or at variance with, this enactment in any Act of Parliament shall be and the same are hereby repealed.

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23 F6

Textual Amendments

F6 Ss. 15–17, 23, repealed by [Feudal Casualties \(Scotland\) Act 1914 \(c. 48\)](#), [Sch. E](#), and expressed to be repealed (*prosp.*) by [2000 asp 5, ss. 76\(2\), 77\(2\)\(d\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75)

24 **Where feu rights stipulating or inferring casualties are contracted to be granted.**

In all cases where superiors have agreed or contracted prior to the passing of this Act to feu land, but have not granted the feu rights thereto prior to the commencement of this Act, and but for the provisions of this Act would have been entitled in the feu rights to stipulate for the payment of casualties as well as of feu-duties, nothing in this Act contained shall be construed or held as depriving such superiors of their right to such casualties, but such casualties may, if desired by such superiors or their vassals in such feus, be converted into annual sums equal to four per cent. on the amount of the price of the redemption of such casualties ascertained as provided in section fifteen hereof, and such annual sums shall be deemed to be feu-duties, with all the legal qualities thereof, and shall form additions to the feu-duties which may have contracted for, and in the feu rights to be granted of such feus superiors shall be entitled, in the event of the casualties being converted as aforesaid, to state as one feu-duty the feu-duty which has been contracted for or agreed upon, and that formed by the converted casualty, and shall have all competent remedies for recovery thereof. But in the event of neither the superiors nor the vassals in such feus desiring to convert casualties agreed or contracted for before the passing of this Act as aforesaid, it shall be competent in such feu rights to stipulate for payment of the casualties which the vassals may expressly or by force of law have agreed or contracted to pay, in the same manner as might have been done prior to the commencement of this Act, and it shall also be competent in such feu rights to stipulate that the same shall be recorded by the agent of the superior at the expense of the vassal if such or a similar stipulation shall have been made and agreed prior to the passing of this Act in the agreement or contract for feuing such land.

25 **Distinction between burgage and feu abolished. Registration of writs in burgh register. Provisions for lands in Paisley held by booking tenure.**

The proprietors of and all others having any estate in land held burgage shall have the same right and interest in such estate as would have belonged to them under this Act or otherwise had the tenure been feu instead of burgage, and there shall not after the commencement of this Act be any distinction between estates in land held burgage and estates in land held feu, in so far as regards the conveyances relating thereto, or the completion of titles, or any of the matters or things to which the provisions of this Act relate; and the proprietors of estates in land which were held burgage shall be entitled to grant feus of the same in the same manner and to the like effect as if such estates in land had been held by feudal tenure; and the titles of all such feus granted before the commencement of this Act shall be unchallengeable on the grounds that such feus are of land held by burgage tenure, or that such titles have been recorded in the burgh register of sasines.

Writs affecting land which immediately prior to the commencement of this Act was held burgage shall be recorded in the burgh register of sasines.

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The provisions of this section in regard to land held by ordinary burgage tenure shall be applicable also to lands in the burgh of Paisley held by the peculiar tenure of booking, except that writs affecting land in said burgh held by the tenure of booking shall be recorded in the register of booking therein.

Modifications etc. (not altering text)

- C6** S. 25 repealed so far as it requires the recording of writs in any burgh register of sasines or in the register of booking for the burgh of Paisley by [Burgh Registers \(Scotland\) Act 1926 \(c. 50\)](#), s. 4, [Sch. 2](#)

26 Form of conveyances.

Conveyances of land hitherto held burgage or by the tenure of booking may be in the forms allowed by the ^{M3}Titles to Land Consolidation (Scotland) Act, 1868, in regard thereto; provided always, that it shall not be necessary to insert in any such conveyances a procuratory or clause of resignation, and that such procuratory or clause if inserted shall be held pro non scripto, and that the forms applicable to lands held feu shall be applicable likewise, and shall have the same or a similar effect with reference to lands which were held burgage or by the tenure of booking prior to the commencement of this Act.

Marginal Citations

- M3** 1868 c. 101.

27 The word “dispone” unnecessary.

It shall not be competent to object to the validity of any deed or writing as a conveyance of heritage coming into operation after the passing of this Act, on the ground that it does not contain the word “dispone,” provided it contains any other word or words importing conveyance or transference, or present intention to convey or transfer.

28 Date of entry.

Where no term of entry is stated in a conveyance of lands, the entry shall be at the first term of Whitsunday or Martinmas after the date or last date of the conveyance, unless it shall appear from the terms of the conveyance that another term of entry was intended.

29 General dispositions forming links of series of titles not objectionable on certain grounds.

No decree, instrument, or conveyance under this Act, and no other decree, instrument, or conveyance, whether dated before or after the commencement of this Act, shall be deemed to be invalid because the series of titles connecting the person obtaining such decree, or expeding such instrument, or holding such conveyance, with the person last infest, shall contain as links of the series two or more general dispositions, or because any general disposition forming a part of the series does not contain a clause of assignation of writs.

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30 Conveyances and discharges of real burdens. Real burdens effectual in competition from date of recording; mode of completing title to real burdens.

It shall be lawful to record in the appropriate register of sasines any deed, instrument, or writing whereby any real burden upon land is assigned, conveyed, or transferred, or is extinguished or restricted.

No deed, instrument, or writing, executed or dated after the commencement of this Act, whereby any real burden upon land shall be hereafter assigned, conveyed, or transferred, shall be effectual in competition with third parties, unless the same is recorded in the appropriate register of sasines; and such deed, instrument, or writing shall take effect in competition with third parties only from the date of such registration, and intimation according to the existing law and practice shall be unnecessary when such deed, instrument, or writing is recorded; and real burdens upon land may be assigned, conveyed, or transferred, and extinguished or restricted, and titles thereto may be completed as nearly as may be in the same manner as in the case of heritable securities constituted or requiring to be constituted by infeftment in favour of the creditor as defined by the ^{M4}Titles to Land Consolidation (Scotland) Act, 1868, and the whole provisions, enactments, and forms of that Act and of this Act relative to the assignation, conveyance, or transference and extinction or restriction of bonds and dispositions in security, and other heritable securities constituted or requiring to be constituted by infeftment as aforesaid, and to the completing of titles thereto, and also the forms referred to, as well as the provisions and enactments contained in section one hundred and seventeen of the said Act shall be taken to apply and shall apply as nearly as may be to real burdens upon land; provided always, that . . . ^{F7} where a real burden upon land shall have been assigned, conveyed, or transferred by any deed, instrument, or writing which has entered the appropriate register of sasines, it shall not be necessary to produce to the notary public expeding any notarial instrument applicable to such real burden, or to set forth in such notarial instrument, as a warrant thereof, the deed, instrument, or writing constituting the said real burden; but it shall be sufficient to produce to him, and to specify shortly in such notarial instrument, the deed, instrument, or writing, or the deeds, instruments, or writings whereby the said real burden shall have been assigned, conveyed, or transferred, and which, or one or more of which, if there are more than one, shall have entered the appropriate register of sasines.

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Textual Amendments
F7 Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 34\(2\), Sch. 3](#)

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Marginal Citations
M4 [1868 c. 101](#)

31 ^{F8}

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Textual Amendments
F8 [Ss. 9–13, 31, 43, 46, 63, Sch.E](#) repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 34\(2\), Sch. 3](#)

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32 Reservations, conditions, and covenants, affecting lands may be imported by reference.

Reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations affecting land may be validly and effectually imported into any deed, instrument, or writing relating to such lands by reference to a deed, instrument, or writing applicable to such lands, or to the estate of which such lands form a part, recorded in the appropriate register of sasines, and in which such reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations are set forth at full length, and a reference in the form set forth in Schedule H. hereto annexed, or in a similar form, shall be sufficient. And it shall be lawful for any proprietor of lands to execute a deed, instrument, or writing, setting forth the reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations under which he is to feu or otherwise deal with or affect his lands, or any part thereof, and to record the same in the appropriate register of sasines; and the same being so recorded, such reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations may be effectually imported in whole or in part by reference into any deed or conveyance relating to such lands subsequently granted by such proprietor, or by his heir or successor, or by any person whatsoever, provided it is expressly stated in such deed or conveyance that it is granted under the reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations set forth in such deed, instrument, or writing.

Modifications etc. (not altering text)

- C7** S. 32 excluded by [Land Registration \(Scotland\) Act 1979 \(c.33, SIF 31:3\)](#), **ss. 15(2)(a), 30(2)**
- C8** S. 32 applied with modifications by [Registration of Leases \(Scotland\) Act 1857 \(c. 26, SIF 75:2\)](#), **s. 3(5)** as inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 75:2\)](#), **s. 3**

33 **F9**

Textual Amendments

- F9** **Ss. 33, 55** repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)

34 **F10**

Textual Amendments

- F10** S. 34 repealed by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), **s. 16(5)**

35 Registration of a decree of division.

A decree of division of commonry or of common property or runrig lands, whether pronounced by a court of law, or by arbiters or by an oversman, shall have the effect of a conveyance containing assignments of writs by all the joint proprietors in favour of the several parties participating in the division of the shares severally allotted to them, and the extract decree pronounced by the court, or the decree pronounced by the

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arbiters or oversmen, or an extract thereof from any competent court books, may be recorded in the appropriate register of sasines, in ordinary form on behalf of all or any of the parties, or may be used by all or any of the parties for the purpose of infefment in, or of acquiring a personal right to the shares severally allotted to them, or to any portion thereof, as an assignation, or one of a series of assignations, of an unrecorded conveyance or of a personal right under this Act.

36 Effect of decree of sale of glebe.

A decree of sale obtained in terms of section seventeen of the ^{M5}Glebe Lands (Scotland) Act, 1866, shall have the effect of a conveyance by the minister of the parish at the sight of the heritors of the parish and of the presbytery of the bounds, to the heritor in whose favour it is pronounced, and his heirs and assignees whomsoever, of the glebe or portion of glebe therein contained; and, on an extract of such decree being recorded in the appropriate register of sasines, shall vest in such heritor the glebe or portion of the glebe described therein, with a holding of the Crown for payment of a penny Scots yearly, if asked only, as fully and completely as if he had obtained a charter from the Crown by virtue of such decree, and been infeft thereon in common form.

Marginal Citations

M5 1866 c. 71.

37 Distinction between heritage and conquest abolished.

The distinction between fees of heritage and fees of conquest is hereby abolished with respect to all successions opening after the commencement of this Act, and fees of conquest shall descend to the same persons, in the same manner, and subject to the same rules as fees of heritage.

^{F11}38

Textual Amendments

F11 S. 38 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), Sch. 5 (with ss. 9(3)(5)(7), 13, 14(3))

^{F12}39

Textual Amendments

F12 S. 39 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), Sch. 5 (with ss. 9(3)(5)(7), 13, 14(3))

^{F13}40

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Textual Amendments

F13 S. 40 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

F14 **41**

Textual Amendments

F14 S. 41 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

42 **F15**

Textual Amendments

F15 S. 42, **Sch. J** repealed by Conveyancing (Scotland) Act 1924 (c. 27), s. **44(6)**

43 **F16**

Textual Amendments

F16 Ss. 9–13, 31, 43, 46, 63, **Sch.E** repealed with savings by Succession (Scotland) Act 1964 (c. 41), s. 34(2), **Sch. 3**

44 Provisions for the case of a person appointed by the court to administer a trust.

When a trust title has been duly completed and recorded, and any person is subsequently appointed by the court to administer the trust in whole or in part as a trustee or judicial factor, the interlocutor whereby the appointment is made shall specify the trust deed, and the other title or titles (if any) by which the trust title had been completed as aforesaid, in such manner as to identify the same, and shall refer to the register or registers of sasines where such deed or title or titles is or are recorded, and also set forth the lands by description or reference; and an extract of such interlocutor, being recorded in the appropriate register of sasines, shall operate a title by infestment in the estate in favour of the trustee or judicial factor thereby appointed, in the same manner as if he had been a trustee named in the completed and recorded title in conformity always with the nature and terms of the appointment, and to the effect of enabling him to perform the duties of the office to which he is appointed.

Modifications etc. (not altering text)

C9 S. 44 amended by Conveyancing (Scotland) Act 1924 (c. 27), s. **5(3)** (b); applied by Conveyancing (Scotland) Act 1924 (c. 27), s. **24(6)**

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45 How title shall be completed when the holder of an office or proprietor is ex officio a trustee and his successor in office takes the trust.

When by the tenor of the title to any estate in land held in trust duly completed in favour of the trustee or trustees therein named, or any of them, and recorded in the appropriate register of sasines, the office of a trustee has been or shall be conferred upon the holder of any place or office, or proprietor of any estate, and his successors therein, any person subsequently becoming a trustee by appointment or succession to the place or office or estate to which the office of trustee has thus been or shall be annexed shall be deemed and taken to have a valid and complete title by infestment in the estate, in the same manner and to the same effect as if he had been named in the completed and recorded title, without the necessity of any deed of conveyance or other procedure.

46 ^{F17}

Textual Amendments

F17 Ss. 9–13, 31, 43, 46, 63, Sch.E repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#)

47 Securities upon land, and relative personal obligations, shall transmit against heirs and disponees.

..... ^{F18} an heritable security for money, duly constituted upon an estate in land shall, together with any personal obligation to pay principal, interest, and penalty contained in the deed or instrument whereby the security is constituted, transmit against any person taking such estate by succession, gift, or bequest, or by conveyance, when an agreement to that effect appears in gremio of the conveyance, and shall be a burden upon his title in the same manner as it was upon that of his ancestor or author, without the necessity of a bond of corroboration or other deed or procedure; and the personal obligation may be enforced against such person by summary diligence or otherwise, in the same manner as against the original debtor. A warrant to charge may be applied for and validly granted in the Bill Chamber or in a Sheriff Court, in the form set forth in Schedule K. hereto annexed, or in a similar form, and all diligence may thereafter proceed against the party in common form. A discharge of the personal obligation of the original or any subsequent debtor, whether granted before or after the commencement of this Act, shall not where the debt still exists prejudice the security on the estate or the obligation as hereby made transmissible against the existing proprietor.

Textual Amendments

F18 Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#)

Modifications etc. (not altering text)

C10 S. 47 restricted by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 15(1)

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48 Provisions for disencumbering lands sold under heritable securities when no surplus emerges.

Where lands are sold by an heritable creditor under the powers competent to creditors in heritable securities, and it shall occur that no surplus remains after deducting the debt secured, with the interest due thereon, and penalties incurred, and expenses in reference to the possession of the estate, (if the creditor had been in possession,) including expense of insurance, repairs and management, and whole expense attending such sale, and after paying all previous incumbrances, and the expense of discharging the same, it shall be competent to any notary public to execute a certificate to that effect, in, or as nearly as may be in, the terms of Schedule L., No.1 hereto annexed, and the disposition by the creditor to the purchaser shall, along with such certificate, when recorded in the appropriate register of sasines, have the effect of completely disencumbering the lands and others sold of all securities and diligences prior and posterior to the security of such creditor, as well as of the security and diligence of such creditor himself, save and except when the security and diligence of such creditor shall be assigned by way of further or collateral security to the purchaser.

Modifications etc. (not altering text)

C11 S. 48 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 32, Sch. 8 para. 16](#)

49 Provision for disencumbering lands of heritable security.

Where the debtor in any heritable security, whether granted before or after the commencement of this Act, shall have exercised the power or right of redemption contained therein, but where from the death or absence of the creditor, or any other cause, the debtor cannot obtain a discharge of the incumbrance created by the security, it shall be competent to him to consign the amount, principal and interest, due, and thereupon it shall be competent to any notary public to expedite a certificate in, or as nearly as may be in, the terms of Schedule L., No.2, hereto annexed, and the recording of the said certificate in the appropriate register of sasines shall, provided the principal debt and all interest due thereon in terms of the security shall have been so consigned, have the effect of completely disencumbering the lands contained in such heritable security of the debt and of all interest and penalties corresponding thereto.

Modifications etc. (not altering text)

C12 S. 49 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\), s. 32, Sch. 8 para. 17](#)

50 Form and effect of assigning right of relief or other right affecting land.

An assignation or conveyance of any obligation or right of relief or other right connected with lands, but the title to which does not, according to the present law, pass under the general assignation of writs in the disposition of the lands, may be granted in, or as nearly as may be in, the form of Schedule M. hereto annexed, and may either be a separate deed or part of another deed, and shall have the effect of vesting in the person or persons in whose favour it is granted, and his or their successors, a valid and complete right and title to the obligation or right thereby assigned or conveyed,

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with all the intermediate transmissions thereof, to the same effect in all respects as if an assignation or conveyance in the form at present in use had been granted in his or their favour.

Modifications etc. (not altering text)

C13 S. 50 excluded by [Land Registration \(Scotland\) Act 1979 \(c.33, SIF 31:3\)](#), **ss. 15(4)(a)** 30(2)

51 Probate equivalent to will or extract for completing title.

The production to any notary public of the probate of the will or other testamentary settlement of a person deceased, issued by [^{F19}(a)]any Court of Probate in England or in Ireland, or in any British colony or dependency [^{F19}or (b) a district court in Palestine before 15th May 1948], [^{F20}or (c) the Supreme Court of Aden before 30th November 1967,]or of an exemplification of such probate, shall for the purpose of expediting a notarial instrument,or otherwise completing a title to any estate in land or to any heritable security, be held to be equivalent to and as effectual as the production to such notary of the will or settlement itself, or of an extract thereof from the books of council and session, and it shall not be competent to institute any challenge of any notarial instrument in respect of the probate or exemplification having been used as the warrant for expediting the same prior to the commencement of this Act.

Textual Amendments

F19 Words in S. 51 inserted by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), **Sch. 2**

F20 Words in s. 51 inserted (8.11.1995) by [1995 c. 44, s. 1\(2\)](#), **Sch. 2 para. 2**

Modifications etc. (not altering text)

C14 Power to extend s. 51 given by [Foreign Jurisdiction Act 1890 \(c. 37\)](#), s. 5, **Sch. 1**

52 Decrees of service unchallengeable on certain grounds.

It shall not be competent to challenge any judgement or decree of service pronounced in terms of the Act tenth and eleventh Victoria, chapter forty-seven, intituled “An Act to amend the law and practice in Scotland as to the service of heirs,” or of the ^{M6}Titles to Land Consolidation (Scotland) Act, 1868, and dated before the commencement of this Act, or any extract of any such judgment or decree, or any titles following upon such judgment, decree, or extract, on account of any objection to the manner or form in which such judgment or decree was recorded or extracted by the Director of Chancery or his depute, or on the ground that the manner and form of recording or extracting such judgments or decrees in use by the Director of Chancery or his depute for the time had not been directed or approved of by the lord clerk register in terms of the said Acts, or on the ground that evidence was led in the petition on which such decree followed, and that the decree itself was pronounced before the expiry of the induciæ, or days of publication prescribed under the tenth section of the former Act, or under the thirty-third section of the latter Act.

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Modifications etc. (not altering text)

- C15** Functions of Director of Chancery now exercisable by keeper of the Registers of Scotland:
[Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\)](#), **s. 7**, S.R. & O, 1932/148 (Rev. III, p. 655: 1932, p. 140) and [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\)](#), **s. 1(2)**

Marginal Citations

- M6** 1868 c. 101.

53 Form of completing title to heritable securities under a general disposition.

It shall be competent to the grantee under a general disposition within the sense and meaning of the nineteenth section of the ^{M7}Titles to Land Consolidation (Scotland) Act, 1868, or to a person acquiring or deriving right from such grantee, to complete a title to an heritable security belonging to the granter of such general disposition, and in which such granter was infeft, by expeding and recording in the appropriate register of sasines a notarial instrument in, or as nearly as may be in, the form of Schedule N. hereto annexed; and on such notarial instrument being so expedite and recorded the grantee or the person acquiring or deriving right from such grantee, as the case may be, in whose favour such instrument has been expedite shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself. And it shall not be competent to challenge the validity of any notarial instrument expedite and recorded before or after the commencement of this Act with reference to any heritable security in terms of the said nineteenth section of the said Act upon the ground that such notarial instrument is not in the form of Schedule (L) annexed to the said Act, or that the said form is not adapted to heritable securities.

Modifications etc. (not altering text)

- C16** [S. 53](#) repealed with savings except in relation to general dispositions by conveyance inter vivos by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), **Sch. 3**

Marginal Citations

- M7** 1868 c. 101.

54 Recorded deed or instrument unchallengeable on certain grounds.

No challenge of any deed, instrument, or writing recorded in any register of sasines shall receive effect on the ground that any part of the record of such deed, instrument, or writing is written on erasure, unless such erasure be proved to have been made for the purpose of fraud, or the record is not conformable to the deed, instrument, or writing as presented for registration.

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Textual Amendments

F21 Ss. 33, 55 repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)

56 **F22**

Textual Amendments

F22 S. 56 repealed by [Companies \(Consolidation\) Act 1908 \(c. 69\)](#), [Sch. 6](#)

57 †**Certain offices abolished, and the duties of the Sheriff of Chancery, &c. enlarged.**

..... ^{F23} the duties of the office of presenter of signatures, so far as the same continue to be necessary, shall be discharged by the Sheriff of Chancery and the duties of the office of clerk to the presenter of signatures shall be performed by the Sheriff Clerk of Chancery; it shall not be necessary either for the Sheriff of Chancery or for the sheriff of any county to hold a court for the consideration or disposal of any unopposed petition for service.

Textual Amendments

F23 Words repealed by [Statute Law Revision Act 1883 \(c. 39\)](#) and [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

Modifications etc. (not altering text)

- C17** A dagger appended to a marginal note means that it is no longer accurate
- C18** Functions of Sheriff of Chancery now exercisable by Sheriff of the Lothians: [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), [s. 31\(1\)](#)

58 **Provisions as to Chancery office.**

The office, duties, and emoluments of the Director of Chancery, and of the deputy directors and clerks of Chancery, or any of them, may be regulated at any time by the Treasury, and it shall be the duty of the Director of Chancery, in addition to the duties at present discharged by him, to send to every sheriff clerk in Scotland a copy of the printed index or abridgment of the record of services provided to be kept by him by the thirty-eighth section of the ^{M8}Titles to Land Consolidation (Scotland) Act, 1868, and it shall be the duty of every sheriff clerk to keep the same in his office open for the inspection of the public.

Modifications etc. (not altering text)

- C19** Functions of Director of Chancery now exercisable by Keeper of the Registers of Scotland: [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\)](#), [s. 7](#), S.R. & O. 1932/148 (Rev. III, p. 655: 1932, p. 140) and [Public Registers and Records \(Scotland\) Act 1948 \(c. 57\)](#), [s. 1\(2\)](#)

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Marginal Citations

M8 1868 c. 101.

59 Act shall apply to lands held of the Crown and Prince.

The provisions of this Act shall apply to lands held of the Crown and of the Prince, in the same way as to lands held of a subject superior, but shall not prejudice or affect the jus coronæ as a title to lands or heritages.

60 Title to private estates of Her Majesty in Scotland.

Notwithstanding the provisions of this Act, private estates in land of Her Majesty, her heirs or successors, as defined in the ^{M9}Crown Private Estates Act, 1862, and situate or arising in Scotland, which are or shall be held feudally directly under the Crown as superior, may lawfully be held by Her Majesty, or her heirs or successors, of and under herself or themselves as sovereign or sovereigns of this realm and feudal superiors, and the dominion utile thereof shall not be held to merge in the dominium directum or superiority, or to be consolidated therewith; and such private estates shall not thereby fall or revert to the Crown jure coronæ, but shall remain beneficially separate private estates of Her Majesty, her heirs and successors.

Marginal Citations

M9 1862 c. 37.

61 †Section 11 of Titles to Land Consolidation Act repealed; description of lands contained in recorded deeds may be inserted in subsequent writs by reference merely. Reference already made in recorded deed not challengeable if certain particulars correctly given.

..... ^{F24} in all cases where any lands have been particularly described in any conveyance, deed, or instrument of or relating thereto, recorded in the appropriate register of sasines, it shall not be necessary in any subsequent conveyance, deed, or instrument, conveying or referring to the whole or any part of such lands, to repeat the particular description of the lands at length; but it shall be sufficient to specify the name of the county, and where the lands were held by burgage or by any similar tenure prior to the commencement of this Act, the name of the burgh and county in which the lands are situated, and to refer to the particular description of such lands as contained in such prior conveyance, deed, or instrument so recorded in or as nearly as may be in the form set forth in Schedule O. hereto annexed; and the specification and reference so made in any such subsequent conveyance, deed, or instrument, whether dated prior or subsequent to the commencement of this Act, shall be held to be equivalent to the full insertion of the particular description contained in such prior conveyance, deed, or instrument, and shall have the same effect as if the particular description had been inserted in such subsequent conveyance, deed, or instrument exactly as it is contained in such prior conveyance, deed, or instrument; and it shall not be competent. ^{F25}

to object to any specification and reference to any particular description of lands contained in any conveyance, deed, or instrument recorded prior to the commencement of this Act, provided such specification and reference states correctly the name of the

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county, and where the lands were held by burgage or by any similar tenure prior to the commencement of this Act, the name of the burgh and county in which the lands are situated, and refers correctly to the prior recorded conveyance, deed, or instrument containing the particular description of such lands; and where any conveyance, deed, or instrument recorded prior to the commencement of this Act contains a specification and reference stating these particulars correctly, the specification and reference so made shall be held to have been equivalent to the full insertion of the particular description contained in the prior conveyance, deed, or instrument referred to, as if the particular description had been inserted in such recorded conveyance, deed, or instrument exactly as it is contained in the prior conveyance, deed, or instrument referred to.

Textual Amendments

- F24** Words repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)
F25 Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

Modifications etc. (not altering text)

- C20** A dagger appended to a marginal note means that it is no longer accurate
C21 [S. 61](#) excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\)](#), **ss. 15(1)**, 30(2)
C22 [S. 61](#) extended by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), **s. 8 (1) (2)**, [Land Commission Act 1967 \(c. 1\)](#), **s. 9(5)**, [Countryside \(Scotland\) Act 1967 \(c. 86\)](#), **ss. 16(4)**, 38(4) and [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), s. 278, **Sch. 24 para. 1(2)**

62 **Section 62 of the Titles to Land Consolidation Act, 1868, and section 4 of the Titles to Land Consolidation Amendment Act, 1869, repealed. Effect of a decree of adjudication or sale.**

Section sixty-two of “The titles to Land Consolidation (Scotland) Act, 1868,” and section four of “The Titles to Land Consolidation (Scotland) Amendment Act, 1869,” are hereby repealed, and in place thereof the following words shall be deemed and taken to be the sixty-second section of the said Act of 1868, and the said Act of 1868 shall be read and construed as if the sixty-second section thereof had been originally expressed in the following words, viz:

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 in nonage or of insane mind, to be holden in the case of lands not held by burgage tenure in the manner of holding is expressed, and to be holden of Her Majesty in free burgage in the case of lands held by burgage tenure and it shall be lawful and competent to such adjudger or purchaser to complete feudal titles to said lands, not only by infertment on such decree as a conveyance or by using it, for the purpose of infertment, as an assignation or as one of a series of assignations of an unrecorded conveyance, as the case may be, in the

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manner provided this Act, but also when the lands are not held by burgage tenure, by obtaining from the superior charter of adjudication or of sale of said lands and expeding infeftment on such charter in common form, or where the ancestor of such apparent heir, or the owner or proprietor in trust or otherwise, or seller of the lands adjudged or sold, shall have been or shall be entered with his superior, or in a situation to charge such superior, under the powers in this Act contained, to grant entry by confirmation, by taking infeftment on such decree as a conveyance, in the manner provided by this Act, and thereafter obtaining from the superior of the lands a charter or writ of confirmation of such decree and infeftment proceeding on the same, which infeftment shall, with such decree, be an effectual feudal investiture in the said lands in terms of such decree, holding base of the owner or proprietor in trust or otherwise, or seller of the lands adjudged or sold, and his heirs, until confirmation thereof shall be granted by the superior of the lands, in the same manner and to the same effect as if such owner or proprietor or seller had granted a disposition of the lands to the adjudger or purchaser in the terms of the said decree, with an obligation to infeft a me vel de me to be completed by confirmation, and a precept of sasine, and the adjudger or purchaser had been infeft on such precept, and the effect of the charter or writ of confirmation of such decree or of the infeftment thus proceeding upon the same shall be to make the lands hold immediately of and under such superior; but the right of the superior to the composition payable by the adjudger or purchaser as due under the existing law is hereby reserved entire, and the adjudger or purchaser, by taking infeftment on any such decree in any of the modes above mentioned, shall become indebted in such composition to the superior, and shall be bound to pay the same on the superior tendering a charter or writ of confirmation, whether such charter or writ shall be accepted or not, and the superior shall be entitled to recover such composition as accords of law; and it is hereby provided, that such infeftment on any such decree shall, without prejudice to any other diligence or procedure, be of itself sufficient to make the adjudication effectual in all questions of bankruptcy of diligence:

Provided always, that where the investiture of any lands has imposed or shall impose a prohibition against subinfeudation or alternative holding, such adjudger or purchaser shall, in respect of such recorded decree or of any notarial instrument following on such decree, and notwithstanding and such prohibition, be deemed and taken to be duly infeft in the lands adjudged or sold as from the date of recording such decree or instrument, but without prejudice to the right of the superior to require such adjudger or purchaser to enter forthwith as accords of law, and to deal with such adjudger or purchaser, as with a vassal unentered.

Modifications etc. (not altering text)

C23 The text of S. 62 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

63 **F26**

Textual Amendments

F26 Ss. 9–13, 31, 43, 46, 63, Sch.E repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#)

Status: Point in time view as at 08/11/1995.

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64 Section 127 of last-recited Act repealed. Executor nominate or disponee mortis causa may complete title by notarial instrument.

Section one hundred and twenty-seven of the last-recited Act is hereby repealed, and in place thereof the following words shall be deemed and be taken to be the one hundred and twenty-seventh section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-seventh section thereof had been originally expressed in the following words, viz:

Upon the death of any creditor in right of an heritable security constituted by infeftment as aforesaid from which executors shall not have been excluded, and who shall die leaving a testamentary or mortis causa deed or writing naming executors, or disposing or bequeathing his moveable estate, or disposing or bequeathing the security, it shall be competent for the executors, duly confirmed, or for the disponees, or for the legatees, as the case may be, to complete a title thereto by expeding and recording in the appropriate register of sasines an instrument under the hand of a notary public in the form or as nearly as may be in the form of Schedule (KK.) hereto annexed; and when such executors or disponees, or legatees, being more than one, shall not be entitled to such security wholly for their own beneficial interest, it shall be competent to take such notarial instrument in favour of such executors or disponees or legatees, and the survivors and survivor of them, unless such a destination be expressly excluded by the terms of the deed or writing; and where any creditor has died or shall die before the commencement of this Act, in right of such an heritable security, and leaving a mortis causa conveyance thereof, or of his heritable estate generally, or where any creditor shall die thereafter in right of such an heritable security from which executors shall have been excluded and leaving such a mortis causa conveyance, or a testamentary deed or writing within the meaning of the twentieth section of this Act, it shall be competent to the grantee or legatee under such mortis causa conveyance or testamentary deed or writing to complete a title to the security by notarial instrument as aforesaid; and on such instrument being so recorded the executors, disponees, legatees, or grantees, as the case may be, in whose favour such instrument has been expedited, shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself.

Modifications etc. (not altering text)

C24 The text of Ss. 64, 65 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

65 Section 129 of last-recited Act repealed. Adjudgers may complete their title by recording abbreviate or extract decree of adjudication.

Section one hundred and twenty-nine of the last-recited Act is hereby repealed, and in place thereof the following words shall be deemed and be taken to be the one hundred and twenty-ninth section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-ninth section thereof had been originally expressed in the following words, viz;

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

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adjudger to complete his title to such securities by recording either the abbreviate of adjudication or an extract of such decree in th 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.

Modifications etc. (not altering text)

C25 The text of Ss. 64, 65 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

66 Schedules to be part of Act.

The schedules annexed to this Act, and the directions therein contained, and notes thereto appended, shall have the same effect as if they were contained in the body of this Act.

67 Repeal of Acts. &c.

All statutes, laws, and usages at variance with any of the provisions of this Act are hereby repealed.

68 **F27**

Textual Amendments

F27 S. 68 repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

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SCHEDULE A

FORM OF NOTICE TO BE GIVEN TO A SUPERIOR OF CHANGE OF OWNERSHIP

(Place and date.)

Sir,

I hereby intimate to you that ^(F28) has [orhave] now right to ^(F29) which lands [orsubjects] formerly belong to ^(F30).

Textual Amendments

F28 Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

F29 Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 34\(2\), Sch. 3](#)

F30 Words repealed by [Feudal Casualties \(Scotland\) Act 1914 \(c. 48\), Sch. E](#)

I am, Sir,

Your most obedient servant, ^(F31).

Textual Amendments

F31 Words repealed by [Statute Law Revision Act 1883 \(c. 39\) and Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

^(F28)*Here state name, designation, and address of the new proprietor or proprietors of the feu.*

^(F29)*Here mention the names by which the lands or subjects are generally known, so as to distinguish them to the superior, but without giving any detailed description of the lands or subjects, and if in a town or village mention the number of the street or otherwise distinguish the feu, and if a reference to the feu right will more easily and clearly distinguish the lands or subjects a reference to the feu right can be given, but the superior shall not be entitled to object either that the name or designation or address of the new proprietor or proprietors of the feu is erroneous, or that the form in which the lands or subjects are referred to is insufficient or erroneous, unless it can be shown that the notice given as to these particulars or any of them was intended to mislead the superior as to the identity of the new proprietor or proprietors of the feu or as to the particular lands or subjects to which the notice should have referred.*

^(F30)*Insert the name of the last entered vassal, whether by actual entry previous to the commencement of this Act or by implied entry under it.*

^(F31)*To be signed (but not attested) by the seller of the feu, or by heir or the trustees or executors of a deceased proprietor; or by any one of the trustees or executors for himself and his co-trustees or co-executors, or by an agent of any of these parties.*

To be addressed and posted or delivered to the superior or to his known agent, or to the person to whom the feu-duties of the feu have been paid, and in the event of the superior being unknown or doubtful, the notice to be addressed “to the superior” of the lands mentioned in the notice without name (in the event of the proprietor being unable to ascertain name of the superior), and to be posted or sent to the keeper of the Office of Edictal Citations in Edinburgh, and published

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in the register of these citations, and also (where there is doubt as to the superior) to the person or to the agent of the person as to whom such doubt exists.

SCHEDULE B

FORM OF SUMMONS OF DECLARATOR AND FOR PAYMENT OF A CASUALTY

Modifications etc. (not altering text)

C26 Functions of Commissioners of Woods now exercisable by Crown Estate Commissioners: S.R. & O. 1924/1370 (Rev. V, p. 443): 1924, p. 228), [Crown Estate Act 1956 \(c. 73\), s. 1\(1\)](#) and [Crown Estate Act 1961 \(c. 55\), s. 1\(1\)](#)

Victoria, &c. Whereas it is humbly meant and shown to us by our lovite *A.* [*design him*], immediate lawful superior of the lands [*or subjects*] after described [*or referred to*], and duly infest therein conform to [*here mention title and date of recording same in the register of sasines*], Pursuer against *B.* [*design him*], Defender, in terms of the condescendence and note of pleas in law hereunto annexed: Therefore it ought and should be found and declared by decree of the lords of our council and session, that in consequence of the death of *C.* [*or otherwise as the case may be*], who was the vassal last vest and seised in all and whole the lands of *X.* [*describe or refer to the lands, and if the casualty due is a taxed composition, or an heir's relief duty, say*] the casualty of £ [*or, if a singular successor's untaxed composition be due, say*] a casualty, being one year's rent of the lands, became due to the said *A.* as superior of the said lands upon the day of , being the date of the death of the said *C.* [*or*] the date of the infestment of the said *B.* in the said lands of *X.* [*or otherwise, as the case may be*], and that the said casualty is still unpaid, and that the full rents, maills, and duties of the said lands of *X.*, after the date of citation herein, do belong to the pursuer the said *A.*, as superior thereof, until the said casualty and the expenses after mentioned be otherwise paid to the said *A.*: And the said *B.* ought and should be decerned and ordained by decree foresaid forthwith to make payment to the pursuer the said *A.*, of the said sum of £, being the casualty foresaid, [*or of the sum of £, or such other sum more or less as shall be ascertained in the course of the process to follow hereon to be one year's rent of the said lands*], together with the sum of £, or such other sum more or less as our said lords shall modify as the expenses of the process to follow hereon conform to the laws and daily practice of Scotland, used and observed in the like cases as is alleged. Our will is therefore, &c.

Note.—In the event of the summons being one at the instance of the Crown or Prince and Steward of Scotland, the necessary alteration will be made, and the summons will be at the instance of the Lord Advocate on behalf of the Commissioners of Woods.

SCHEDULE C

FORM OF MINUTE FOR EFFECTING CONSOLIDATION OF LANDS

L.A.B., heritable proprietor both of the immediate superiority and of the property [*or of the mid-superiority*] of all and whole [*describe or refer to the lands*], hereby consolidate the property of the said lands [*or the mid-superiority of the said lands*] with the immediate superiority thereof. [^{F32}Testing clause+.

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Textual Amendments

F32 Words in Sch. C substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 21 (with ss. 9(3)(5)(7), 13, 14(3))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

^{X1}SCHEDULE D

FORM OF MEMORANDUM OF ALLOCATION OF FEU-DUTY

Editorial Information

X1 The Schedules to this Act contain 2 schedules labelled D as a result of a substitution by 1924 (c. 27), s.8(1)

The proportion of the original feu-duty of £ allocated upon the lands within disposed [*or as the case may be*], is hereby fixed at £, [*and if an augmentation has been stipulated for, add*] with £ of augmentation, making a total of £.

(Signed)A.B. (the superior of the lands or his commissioner.)

^{F33F33}SCHEDULE E

Textual Amendments

F33 Ss. 9–13, 31, 43, 46, 63, Sch.E repealed with savings by Succession (Scotland) Act 1964 (c. 41), s. 34(2), Sch. 3

.....
 F33

SCHEDULE F

FORM OF DISCHARGE OF CASUALTIES

I,A.B. [*design him*], proprietor of the estate of superiority in the lands of [*describe or refer to a description of the lands discharged*], whereof the estate of property belongs to C.D. [*design him*], in consideration of [*state cause of granting*], hereby discharge in favour of the said C.D., and his heirs and successors, all casualties incident to my said estate of superiority exigible in respect of the said estate of property [*if only some of the casualties are redeemed specify what they are*], and I consent to the registration hereof for preservation. [^{F34}Testing clause+.

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Textual Amendments

F34 Words in Sch. F substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 21 (with ss. 9(3)(5)(7), 13, 14(3))

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SCHEDULE G

FORM OF MEMORANDUM CONSTITUTING A FEU-DUTY OR ADDITIONAL FEU-DUTY

Modifications etc. (not altering text)

C27 Sch. G applied by Conveyancing (Scotland) Act 1924 (c. 27), s. 12(2) (3)

It is agreed between *A*. [*name and designation of superior*] immediate lawful superior of the lands of [*describe or refer to a description of the lands*] on the one part, and *B*. [*name and designation of proprietor of estate of property*] the proprietor of the dominium utile of the said lands on the other part, that the dominium utile of the said lands shall, from and after the term of [*state term*], be liable in payment to the superior thereof of a feu-duty of £ [*or if there be a feu-duty already payable, of an additional feu-duty of £ over and above the existing feu-duty of £*]; and that yearly, at two terms in the year [*state the terms at which the feu-duty is to be paid, and that at the term of (state term) yearly*], beginning the first term's payment [*state term, and whether with interest*]; which feu-duty [*or additional feu-duty*] is constituted in respect of [*state here whether the additional feu-duty is in respect of a commutation of casualties, or of carriages, &c., as the case may be*]. [^{F35}Testing clause+.]

Textual Amendments

F35 Words in Sch. G substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 22(a) (with ss. 9(3)(5)(7), 13, 14(3))

Note.—If the memorandum be executed by the agents of either or both of the parties, it will be stated in the testing clause that the memorandum is signed by them in that capacity for and on behalf of their constituent or respective constituents.

[^{F36}+Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

Textual Amendments

F36 Words in Sch. G added (1.8.1995) (S.) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 22(b) (with ss. 9(3)(5)(7), 13, 14(3))

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SCHEDULE H

FORM OF REFERENCE TO A DEED, INSTRUMENT, OR WRITING FOR RESERVATIONS, BURDENS, AND CONDITIONS AFFECTING LANDS

The reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations [or as the case may be] specified in [refer to the deed, instrument, or writing in such terms as shall be sufficient to identify it, and specify the register in which it is recorded, and the date of registration, or where the deed, instrument, or writing referred to is recorded on the same date as the deed, instrument, or writing containing the reference, here say, recorded of even date with the recording of these presents].

F37 SCHEDULE I

Textual Amendments

F37 Sch. I repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), Sch. 5 (with ss. 9(3)(5)(7), 13, 14(3))

F38F38 SCHEDULE J

Textual Amendments

F38 S. 42, Sch. J repealed by Conveyancing (Scotland) Act 1924 (c. 27), s. 44(6)

F38

SCHEDULE K

FORM OF MINUTE TO BE PRESENTED IN BILL CHAMBER OF COURT OF SESSION, OR IN SHERIFF COURT, FOR WARRANT TO CHARGE AN HEIR OR DISPONEE UNDER A PERSONAL OBLIGATION BY HIS ANCESTOR OR AUTHOR.

Warrant is craved, in virtue of the Conveyancing (Scotland) Act, 1874, at the instance of *A.B.* [name and design applicant], the creditor [if he is not the original creditor, or only a partial creditor, add, in virtue of (or to the extent and in virtue of) the assignation (or general disposition and notarial instrument or other writ or writs forming the title in the creditor's person) in his favour after mentioned [under a bond and disposition in security over the lands of [specify shortly the lands,] for the principal sum of £ with corresponding interest and penalties, granted by *C.D.* [design him], then proprietor of the said lands, in favour of the said *A.B.* [or of *G.H.* (design him) as the case may be], and dated [state date] [and if recorded, say, and recorded in the register of sasines (state register and date of recording), or and instrument of sasine thereon recorded, &c., as the case may be]; To charge *E.F.* [design him], the present proprietor of the said lands, and as such the present debtor in the said bond and disposition in security, to make payment to the said *A.B.* of the said principal sum of £ contained in and due by the said bond

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and disposition in security [*if A.B. is only a partial creditor, say, of the principal sum of £ being the extent to which the said A.B. is in right of the said bond and disposition in security*]: And also of the further sum of £ being the amount of the interest due thereon. Produced herewith the said bond and disposition in security [*or an extract thereof from the books of council and session from the register of sasines; if the applicant is not the original creditor, the title in his own person to the security will also be stated and produced.*]

Dated the day of

(Signed) *A.B.*, W.S., Edinburgh, [*or as the case may be*].

The Clerk of the Bills, or Sheriff Clerk, as the case may be, will subjoin

Fiat ut petitur.

[*To be dated and signed by the Clerk.*]

SCHEDULE L

NO.1

FORM OF CERTIFICATE WHERE LANDS ARE SOLD UNDER HERITABLE SECURITY AND NO SURPLUS EMERGES

I, *A.B.* [*insert designation*], Notary Public, with reference to the sale of all and whole the lands of [*describe or refer to the lands*], which sale took place at upon the day of at the instance of *C.D.* [*design him*], in virtue of the power of sale contained in a bond and disposition in security for the sum of £ with interest and penalties corresponding thereto, dated and recorded in the register of sasines for the day of granted to *G.H.* [*design him*] in favour of the said *C.D.* [*or in favour of E.F. (design him), but to which the said C.D. has acquired right by progress (or otherwise, as the case may be)*], do hereby certify that there has been submitted to me a statement of the intromissions of the said *C.D.*, with the price of the said lands subscribed, as authentic, by the said *C.D.* [*or by M.N., agent of the said C.D., on his behalf*], from which it appears that no surplus remains for consignment in bank, in terms of the 122nd and 123rd sections of the Titles to Lands Consolidation (Scotland) Act, 1868, and I make this certificate in terms of the Conveyancing (Scotland) Act, 1874. [^{F39}Testing clause+.

Textual Amendments

F39 Words in Sch. L No. 1 substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 21 (with ss. 9(3)(5)(7), 13, 14(3))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

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No.2

FORM OF CERTIFICATE WHERE LANDS HAVE BEEN REDEEMED OF HERITABLE SECURITY, BUT DISCHARGE CANNOT BE OBTAINED

I, *A.B. [design him]*, Notary Public, do hereby certify that *C.D. [design him]*, proprietor of the lands of *X. [name the lands as shortly as possible]* and others in the county of *Y.*, being the lands contained in the bond and disposition in security [*or other deed of security*], for £ after mentioned, has appeared before me, and represented that he did on the day of consign in the bank at the sum of £ with £ being the whole interest due under the said bond and disposition in security [*or other deed of security*] in the name of *E.F. [design him]* the creditor in the said bond and disposition in security [*or other deed of security; if only a partial creditor say,* to the extent of £]; which consignation was made in virtue of the power of redemption reserved in the said bond and disposition in security [*or other deed of security*] which was granted by the said *C.D. [or by J.K. (design him), then proprietor of the said lands]* in favour of the said *E.F. [or L.M. (design him) the original creditor in the said security]*, and is dated [*insert date*] and recorded in the register of sasines for the day of [*if sasine was expedite on the bond and disposition in security or other deed of security, instead of and recorded, &c., say,* on which bond and disposition in security (or other deed of security) the said *E.F. (or L.M. as the case may be)* was infeft conform to instrument of sasine in his favour recorded in the register of sasines for the day of]; and the said consignation was rendered necessary by the refusal of the said *E.F. to receive the said sum of £ and interest thereon [or by the absence of the said E.F., or otherwise, as the case may be, stating the reason why discharge could not be obtained]*, notwithstanding that the requisite notice of redemption was given to him; and I make this certificate in terms of the Conveyancing (Scotland) Act, 1874.

[^{F40}Testing clause+.

Textual Amendments

F40 Words in Sch. L No. 2 substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 21 (with ss. 9(3)(5)(7), 13, 14(3))

+Note—Subscription of the document by the grantor of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

SCHEDULE M

FORM OF ASSIGNATION OF RIGHT OF RELIEF, &c.

Modifications etc. (not altering text)

C28 Sch. M excluded by Land Registration (Scotland) Act 1979 (c. 33, SIF 31:3), ss. 15(4)(a), 30(2)

I [*here insert the name and designation of the grantor, and the cause of granting, unless the assignation forms part of another deed*] hereby assign to *C.D. [here insert the designation of the grantee, unless already given]*, and his heirs and assignees [*or and his foresaids*], a disposition [*or other deed, as the case may be*] granted by [*here insert the names and designations of the persons by and in whose favour the deed to be assigned was granted, with its date and also the*

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date of registration, and the register in which it is recorded, if it has been recorded], whereby the said [name of the original granter of the disposition or obligation] bound and obliged himself, his heirs and successors [here insert the terms of the obligation in the terms so far as possible of the disposition or other deed, e.g.], “to warrant the parsonage teinds of the lands of” [here specify by description or reference, if not already done, the lands to which the obligation or right refers] “from all future augmentations of ministers stipend or other burden imposed or to be imposed upon the said parsonage teinds except the stipend presently payable to the minister of,” [or as the case may be. If the right to be assigned was originally granted in favour of some other person than the granter of the assignment, here specify the series of writs by which he acquired right,]^{F41}Testing clause+

Textual Amendments

F41 Words in Sch. M substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), **Sch. 4 para. 23** (with ss. 9(3)(5)(7), 13, 14(3))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

SCHEDULE N

FORM OF INSTRUMENT IN FAVOUR OF A GENERAL DISPONEE OR HIS ASSIGNEE IN RIGHT OF AN HERITABLE SECURITY

At there was by [oron behalf of]A.B. ofZ.,presented to me, Notary Public subscribing, a bond and disposition in security [or other security or extract, as the case may be] dated [insert date, and where recorded in the register of sasines insert date of recording and specify register of sasines,] granted byC.D. [insert designation] in favour ofE.F. [insert designation] [if sasine has been expedite thereon add,and instrument of sasine thereon in favour of the saidE.F.,recorded in the [specify register of sasines and date of registration] by which bond and disposition in security [or as the case may be] the saidC.D. bound and obliged himself [insert the personal obligation so far as necessary, and disposition of the lands in security, with the description of them, and also all real burdens,&c., if any, all as set forth at full length or by reference in the bond and disposition in security or other security]: As also, there was presented to me a general disposition [or other deed or writing containing a general conveyance, or an extract of such deed or writing, or otherwise, as the case may be,] granted by the said E.F. and dated [insert date], by which general disposition [or otherwise, as the case may be,] the saidE.F. assigned and disposed [or otherwise, as the case may be,] to the saidA.B. and his executors and assignees [or otherwise, as the case may be,] heritably and irredeemably [or,in liferent,or otherwise, as the case may be], all and sundry his whole heritable and moveable estate [or otherwise, as the case may be, and if the deed be granted in trust or for specific purposes add,but in trust always,or, for the uses and purposes specified in the said general disposition (or otherwise, as the case may be)], in which general conveyance was included the said bond and disposition in security [or other security] [and infestment following thereonif infestment was expedite], the saidE.F. being then vest therein as aforesaid. [If the granter of the general disposition or other deed or writing was not the original creditor, but one who had acquired right to the security, instead ofas aforesaidhere sayin virtue of the following writs, viz.specify shortly the title or titles by which he acquired right to the security. If the person expediting the instrument be other than the original grantee under the general disposition or other deed or writing, add,As also there were presented to me

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Changes to legislation: Conveyancing (Scotland) Act 1874 is up to date with all changes known to be in force on or before 01 September 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the following writs whereby the said *A.B.* acquired the said general disponee's right to the said bond and disposition in security [and infetment following thereon], [*or otherwise, as the case may be*], viz., [*specify the title or series of titles by which such person acquired right, and the nature of his right*]. Whereupon this instrument is taken in the hands of *L.M.* [*insert name and designation*]. Notary Public, in terms of the Titles to Land Consolidation (Scotland) Act, 1868, and the Conveyancing (Scotland) Act, 1874. [F42 Testing clause+.

Textual Amendments

F42 Words in Sch. N substituted (S.) (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), Sch. 4 para. 21 (with ss. 9(3)(5)(7), 13, 14(3))

+Note—Subscription of the document by the granter of it will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes (see the Requirements of Writing (Scotland) Act 1995).]

[X2F43 SCHEDULE D]

CLAUSE OF REFERENCE TO A DESCRIPTION OF LAND CONTAINED IN A PRIOR CONVEYANCE, DEED, OR INSTRUMENT

Editorial Information

X2 The Schedules to this Act contain 2 schedules labelled D as a result of a substitution by 1924 (c. 27), s.8(1)

Textual Amendments

F43 Sch.D of Conveyancing (Scotland) Act 1924 (c. 27) substituted retrospectively for Sch. O by s. 8(1) of that Act

All and whole the lands and others (*or* subjects) in the county of (*or* in the burgh of and county of *as the case may be*) described in (*refer to the conveyance, deed, or instrument in such terms as shall be sufficient to identify it, and specify the Register of Sasines in which it is recorded and date of recording, or where the conveyance, deed, or instrument referred to is recorded on the same date as the conveyance, deed, or instrument containing the reference substitute for the date of recording the words of even date with the recording of these presents*):—

NOTES TO SCHEDULE D

Note 1.—In referring to a Deed containing a particular description [F44 or to a Deed containing reservations, real burdens, conditions, provisions, limitations, obligations and stipulations affecting lands] it shall be sufficient to give the names of the granter and grantee or of the parties thereto without adding their designations, and when there are several granters or grantees or several parties acting in the same category it shall be sufficient to give the name of the first mentioned person only with the addition of the words *and others*; and where the granter or granters or grantee or grantees, or the parties or one of the parties thereto acts or act in a fiduciary capacity it shall be sufficient to state such capacity without giving their individual name or names, *e.g.*:

(a) *Feu Charter granted by A.B. in favour of C.D., dated (insert date) and recorded in (specify Register of Sasines and give date of recording).*

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(b) *Disposition granted by C.D. and others in favour of E.F. and others, dated, &c.* (as above).

(c) *Notarial Instrument (or Notice of title) in favour of the Trustee (or Trustees) of G.H. (or the Judicial Factor of J.K. or the Trustee on the Sequestrated Estates of L.M. or the Liquidator of the N.O. Company Limited, or as the case may be) recorded in (specify Register of Sasines and date of recording).*

Textual Amendments

F44 Words inserted by [Conveyancing Admendment \(Scotland\) Act 1938 \(c. 24\), s. 2\(2\)](#)

Note 2.—Where it is desired to insert a short description of the land or subjects, this may be done as follows:—*All and whole that dwelling-house, number ten, Rosebery Crescent, Edinburgh, (or the eastmost half-flat on the second storey of the tenement entering from number fifteen, Lothian Street, Edinburgh, or otherwise, as the case may be) in the county of Edinburgh, described in, &c.* (as above).

Note 3.—If part only of the land or subjects described in a former recorded conveyance, deed, instrument, or notice of title is being conveyed or otherwise dealt with for the first time as a separate subject, such part should be described at length, adding *being part of the lands and others (or subjects) in the county of or in the burgh of and county of described in, &c.* (as above); or thus: *All and Whole the lands and others (or subjects) in the county of or in the burgh of and county of described in, &c.* (as above), *with the exception of* (describe the part excepted).

Note 4.—If several lands or subjects are described in the conveyance, deed, or instrument referred to, and it is intended to specify one or more of them, these may be distinguished from the others thus: *All and Whole the lands and others (or subjects) first (or second and third described in, &c.* (as above, or otherwise as the case may be).

Status:

Point in time view as at 08/11/1995.

Changes to legislation:

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