



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- C3 Words of enactment and certain other words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#) and [Statute Law Revision Act 1898 \(c. 22\)](#)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 [^{F1}prior to the day appointed by order made under section 71 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) were, or might 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 [^{F2}superiority]:

Status: Point in time view as at 28/11/2004.

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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; “[^{F2}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:

[^{F2}“Infefment” shall include every title to an estate in land requiring and admitting of infefment which is duly recorded in the appropriate register of sasines:]

[^{F2}“Feu” shall include “blench,” and “feu-duty” shall include “blench duty”:]

[^{F2}“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 . . . ^{F3} sheriff substitute . . . ^{F3}

Textual Amendments

- F1** Words in s. 3 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(2)(a)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F2** Words in s. 3 ceases to have effect (28.11.2004) by virtue of [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 9(2)(b)-(d)**, **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F3** 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.

- ^{F4}**4** **Renewal of investiture abolished. Infefment 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.**
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Textual Amendments

- F4** S. 4 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(3)**, **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F55 Compositions payable by corporations or trustees or persons having separate interests.

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Textual Amendments

F5 S. 5 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F66 Consolidation of superiority with property.

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Textual Amendments

F6 S. 6 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C5 S. 6 applied by Conveyancing (Scotland) Act 1924 (c. 27), s. **11(1)**

F77 Consolidation not to affect or extend superior's rights.

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Textual Amendments

F7 S. 7 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F88 Memorandum of allocation of feu-duty.

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Textual Amendments

F8 S. 8 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

9#13 **F9**

Textual Amendments

F9 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 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,

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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

^{F10} **14 Legal remedies to prevent entry preserved.**

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12** paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

15— ^{F11} **17.**

Textual Amendments

F11 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**

^{F10} **18 Entails not to bar redemption.**

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12** paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F10} **19 Redemption of casualties by a mid-superior.**

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12** paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F10} **20 Commutation of carriages and services by agreement; or by sheriff.**

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F10 21 Commuted value to be feu-duty. Not barred by entails.

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F10 22 Monopolies of superior's agents annulled.

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

23 **F12**

Textual Amendments

F12 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)

F10 24 Where feu rights stipulating or inferring casualties are contracted to be granted.

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F10 25 Distinction between burgage and feu abolished. Registration of writs in burgh register. Provisions for lands in Paisley held by booking tenure.

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F10}26 Form of conveyances.

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Textual Amendments

F10 Ss. 14-26 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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 [^{F13}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 [^{F14}who last held a recorded title contains] 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.

Textual Amendments

F13 Words in s. 29 ceases to have effect (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(6)(a), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F14 Words in s. 29 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(6)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F15 30 Conveyances and discharges of real burdens. Real burdens effectual in competition from date of recording; mode of completing title to real burdens.

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Textual Amendments

F15 S. 30 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(7), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

31 **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**

F17 32 Reservations, conditions, and covenants, affecting lands may be imported by reference.

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Textual Amendments

F17 S. 32 repealed (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Schs. 15** (with ss. 119(3), 121) (see S.S.I. 2003/456, art. 2)

Modifications etc. (not altering text)

C6 S. 32 excluded by Land Registration (Scotland) Act 1979 (c.33, SIF 31:3), **ss. 15(2)(a), 30(2)**

33 **F18**

Textual Amendments

F18 Ss. 33, 55 repealed by Statute Law Revision Act 1883 (c. 39)

34 **F19**

Textual Amendments

F19 S. 34 repealed by Conveyancing (Scotland) Act 1924 (c. 27), **s. 16(5)**

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35 Registration of a decree of division.

A decree of division of commony 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 assignations of writs by all the [^{F20}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 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 [^{F21}deducing title] to the shares severally allotted to them, or to any portion thereof^{F20}, as an assignation, or one of a series of assignations, of an unrecorded conveyance or of a personal right under this Act].

Textual Amendments

- F20** Word in s. 35 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(9)(a), Sch. 12 para. 9(9)(c), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F21** Words in s. 35 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(9)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

36 Effect of decree of sale of glebe.

A decree of sale obtained in terms of section seventeen of the ^{M3}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^{F22}, 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 infest thereon in common form].

Textual Amendments

- F22** Words in s. 36 ceases to have effect (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(10), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

- M3** 1866 c. 71.

^{F23}37 Distinction between heritage and conquest abolished.

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Textual Amendments

F23 S. 37 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(11), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F24 **38**

Textual Amendments

F24 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))

F25 **39**

Textual Amendments

F25 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))

F26 **40**

Textual Amendments

F26 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))

F27 **41**

Textual Amendments

F27 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 **F28**

Textual Amendments

F28 S. 42, Sch. J repealed by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 44(6)

43 **F29**

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Textual Amendments

- F29** 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 [^{F30}to land or to a real right in or over land] 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 [^{F31}to complete,] in favour of the trustee or judicial factor thereby appointed, [^{F30}title to the land or real right] 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.

Textual Amendments

- F30** Words in s. 44 inserted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 9\(12\)\(a\)](#), [Sch. 12 para. 9\(12\)\(c\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F31** Words in s. 44 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 9\(12\)\(b\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C7** 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)

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 [^{F32}land, or any real right in or over 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 [^{F32}to the land or real right], 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.

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Textual Amendments

F32 Words in s. 45 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(13)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

46 ^{F33}

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**

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

..... ^{F34} an heritable security for money, duly constituted [^{F35}over land, or over a real right 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 [^{F35}such land or real right] 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 [^{F35}the land or real right] or the obligation as hereby made transmissible against the existing proprietor.

Textual Amendments

F34 Words repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), **Sch. 3**

F35 Words in s. 47 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(14)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C8 S. 47 restricted by [Conveyancing \(Scotland\) Act 1924 \(c. 27\)](#), s. 15(1)

^{F36}**48** **Provisions for disencumbering lands sold under heritable securities when no surplus emerges.**

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Textual Amendments

F36 S. 48 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(15), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F37} 49 **Provision for disencumbering lands of heritable security.**

.....

Textual Amendments

F37 S. 49 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(15), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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, 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)

C9 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 [^{F38}production to any notary public of the] probate of the will or other testamentary settlement of a person deceased, issued by [^{F39}(a)]any Court of Probate in England or in Ireland, or in any British colony or dependency [^{F39}or (b) a district court in Palestine before 15th May 1948], [^{F40}or (c) the Supreme Court of Aden before 30th November 1967,]or [^{F41}an exemplification of such probate, shall for the purpose of completing a title to any land, or real right in land,] or to any heritable security, be held to be equivalent to and as effectual as [^{F38}the production to such notary of]the will or settlement itself, or of an extract thereof from the books of council and session[^{F38}, 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].

Status: Point in time view as at 28/11/2004.

Changes to legislation: Conveyancing (Scotland) Act 1874 is up to date with all changes known to be in force on or before 06 February 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F38** Words in s. 51 ceases to have effect (28.11.2004) by virtue of [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(16)(a)(c), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F39** Words in S. 51 inserted by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), **Sch. 2**
- F40** Words in s. 51 inserted (8.11.1995) by 1995 c. 44, s. 1(2), **Sch. 2 para. 2**
- F41** Words in s. 51 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 paras. 9(16)(b)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C10** Power to extend s. 51 given by [Foreign Jurisdiction Act 1890 \(c. 37\)](#), s. 5, **Sch. 1**

^{F42}52 Decrees of service unchallengeable on certain grounds.

.....

Textual Amendments

- F42** [S. 52](#) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(17), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F43}53 Form of completing title to heritable securities under a general disposition.

.....

Textual Amendments

- F43** [S. 53](#) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(17), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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.

55 **F44**

Textual Amendments

- F44** [Ss. 33, 55](#) repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)

56 **F45**

Status: Point in time view as at 28/11/2004.

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Textual Amendments

F45 S. 56 repealed by [Companies \(Consolidation\) Act 1908 \(c. 69\)](#), **Sch. 6**

^{F46}**57** †**Certain offices abolished, and the duties of the Sheriff of Chancery, &c. enlarged.**

.....

Textual Amendments

F46 S. 57 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(17), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F47}**58** **Provisions as to Chancery office.**

.....

Textual Amendments

F47 S. 58 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(17), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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

The provisions of this Act [^{F48}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.

Textual Amendments

F48 Words in s. 59 ceases to have effect (28.11.2004) by virtue of [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(18), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F49}**60** **Title to private estates of Her Majesty in Scotland.**

.....

Textual Amendments

F49 S. 60 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(19), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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**

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merely. Reference already made in recorded deed not challengeable if certain particulars correctly given.

.....^{F50} 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.....^{F51}
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 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

- F50** Words repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)
- F51** Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

Modifications etc. (not altering text)

- C11** A dagger appended to a marginal note means that it is no longer accurate
- C12** [S. 61](#) excluded by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\)](#), **ss. 15(1)**, 30(2)
- C13** [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)**

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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 infeftment on such decree as a conveyance or by using it, for the purpose of infeftment, as an assignation or as one of a series of assignations of an unrecorded conveyance, as the case may be, in the 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 mevel 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

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as accords of law; and it is hereby provided, that such infetment on amy 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 infet 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)

C14 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 F52

Textual Amendments

F52 Ss. 9–13, 31, 43, 46, 63, Sch.E repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), [Sch. 3](#)

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 infetment 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 disponing or bequeathing his moveable estate, or disponing 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

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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 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.

Modifications etc. (not altering text)

C15 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 adjudger to complete his title to such securities by recording either the abbreviate of adjudication or an extract of such decree in the appropriate register of sasines, in either of which cases he shall be in the same position as if an assignation of such heritable securities had been granted in his favour by the ancestor or person or creditor in trust or otherwise, and whether in life or deceased, whose estate is adjudged, and as if such assignation had been duly recorded in the appropriate register of sasines at the date of so recording such abbreviate or such extract decree.

Modifications etc. (not altering text)

C16 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.

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68 F53

.....
Textual Amendments

F53 S. 68 repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

Status: Point in time view as at 28/11/2004.

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SCHEDULE A

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

F54
...

Textual Amendments

F54 Sch. A-C repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 9(20), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

SCHEDULE B

FORM OF SUMMONS OF DECLARATOR AND FOR PAYMENT OF A CASUALTY

F55
...

Textual Amendments

F55 Sch. A-C repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(20), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

SCHEDULE C

FORM OF MINUTE FOR EFFECTING CONSOLIDATION OF LANDS

F54
...

^{F56} SCHEDULE D

FORM OF MEMORANDUM OF ALLOCATION OF FEU-DUTY

Textual Amendments

F56 Sch. D repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(20), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

.....

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^{F57}SCHEDULE E

Textual Amendments

F57 Ss. 9–13, 31, 43, 46, 63, Sch.E repealed with savings by [Succession \(Scotland\) Act 1964 \(c. 41\), s. 34\(2\), Sch. 3](#)

.....
^{F57}

^{F58}SCHEDULE F

FORM OF DISCHARGE OF CASUALTIES

Textual Amendments

F58 Sch. F repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), Sch. 12 paras. 9\(20\), Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F59}SCHEDULE G

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

Textual Amendments

F59 Sch. G repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), Sch. 12 paras. 9\(20\), Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F55}SCHEDULE H

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

.....

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F60 SCHEDULE I

Textual Amendments

F60 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))

F61F61 SCHEDULE J

Textual Amendments

F61 S. 42, Sch. J repealed by Conveyancing (Scotland) Act 1924 (c. 27), s. 44(6)

F61

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 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.*]

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^{F62}SCHEDULE L

Textual Amendments

- F62** Sch. L repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 9(22), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

SCHEDULE M

FORM OF ASSIGNATION OF RIGHT OF RELIEF, &C.

Modifications etc. (not altering text)

- C17** 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 granter, 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 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^{F63}... If the right to be assigned was originally granted in favour of some other person than the granter of the assignation, here specify the series of writs by which he acquired right, [^{F64}Testing clause+]

Textual Amendments

- F63** Words in Sch. M repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 para. 9(23), **13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F64** 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).]

Status: Point in time view as at 28/11/2004.

Changes to legislation: Conveyancing (Scotland) Act 1874 is up to date with all changes known to be in force on or before 06 February 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F65 SCHEDULE N

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

Textual Amendments

F65 Sch. N repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 9(24), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

[X1F66 SCHEDULE D]

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

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)

Textual Amendments

F66 [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 [F67 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 grantor and grantee or of the parties thereto without adding their designations, and when there are several grantors 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 grantor or grantors 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).*
- (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*

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the N.O. Company Limited, or as the case may be) recorded in (specify Register of Sasines and date of recording).

Textual Amendments

F67 Words inserted by [Conveyancing Amendment \(Scotland\) 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:

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