



Conveyancing (Scotland) Act 1874

1874 CHAPTER 94 37 and 38 Vict

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of the Titles to Land Consolidation Act, 1868, and section 4 of the Titles to Land Consolidation Amendment Act, 1869, repealed.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Act, 1868,” and section four of “The Titles to Land Consolidation (Scotland) Amendment Act, 1869,” are hereby repealed, and in place thereof the following words shall be deemed and taken to be the sixty-second section of the said Act of 1868, and the said Act of 1868 shall be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

Changes to legislation: There are currently no known outstanding effects for the Conveyancing (Scotland) Act 1874, Section 62. (See end of Document for details)

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 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)

- C1** 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.

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