



# Heritable Securities (Scotland) Act 1894

1894 CHAPTER 44 57 and 58 Vict

## 13 Provisions of Act to have effect notwithstanding incapacity of debtor. Trustees and others to have powers conferred by Act.

The rights and powers [<sup>F1</sup>under a heritable security] may be exercised by any creditor, although the debtor or any other creditor holding a security over the same lands, or other person to whom intimation may require or be ordered to be given is [<sup>F2</sup>subject to any legal disability by reason of nonage or otherwise], and any action or proceeding [<sup>F1</sup>by a creditor in exercise of those rights and powers] shall have the same force and effect as it would have had if [<sup>F1</sup>the debtor, proprietor, other] creditor, or other person had been of full age and not subject to any legal incapacity when such action or proceeding was taken; [<sup>F3</sup>and—

(a) any person entitled, within the meaning of Part I of the Children (Scotland) Act 1995, to act as the legal representative of a child; and

(b) trustees]

[<sup>F4</sup>(c) the person entitled to act as the legal representative of any such person,] executors, <sup>F5</sup> . . . , [<sup>F6</sup>guardians] judicial factors, and other officers of court may exercise all or any of the powers conferred by this Act.

### Textual Amendments

- F1** Words in s. 13 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [Sch. 12 para. 13\(6\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F2** Words in s. 13 substituted (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991](#) (c. 50, SIF 49:8), ss. 10(1), 11(2), [Sch. 1 para. 23](#) (with s. 1(3))
- F3** Words in s. 13 substituted (1.11.1996) by 1995 c. 36, s. 105(4), [Sch. 4](#) para. 5; S.I. 1996/2203, art. 3, [Sch.](#)
- F4** S. 13(c) inserted (2.4.2001 for specified purposes otherwise 1.4.2002) by 2000 asp 4, s. 88(2), [Sch. 5 para. 7\(a\)](#); S.S.I. 2001/81, arts. 2, 3, [Sch. 1](#), [Sch. 2](#)
- F5** Words in s. 13 repealed (2.4.2001 for specified purposes otherwise 1.4.2002) by 2000 asp 4, s. 88(2) (3), [Sch. 5 para. 7\(b\)](#), [Sch. 6](#); S.S.I. 2001/81, arts. 2, 3, [Sch. 1](#), [Sch. 2](#)
- F6** Word in s. 13 inserted (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991](#) (c. 50, SIF 49:8), ss. 10(1), 11(2), [Sch. 1 para. 23](#) (with s. 1(3))

**Changes to legislation:**

Heritable Securities (Scotland) Act 1894, Section 13 is up to date with all changes known to be in force on or before 17 September 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act explained by [2007 asp 3 s. 126](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(2A) inserted by [2014 asp 18 sch. 5 para. 20](#)
- Sch. A-C repealed by [2007 asp 3 Sch. 6 Pt. 1](#)