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## SCHEDULE 12

(introduced by section 76(1))

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

###### *Mines and Metals Act 1592 (c.31) (Act of the Parliaments of Scotland)*

- 1 In the Mines and Metals Act 1592—
- (a) for the words “sett in few ferme” substitute “ dispone ”;
  - (b) for the word “frehalder” substitute “ owner ”;
  - (c) the words “or few” shall cease to have effect;
  - (d) for the words “saidis fewis” substitute “ disposition of the saidis mynis ”;
  - (e) for the words “four witnesses” substitute “ ane witness ”; and
  - (f) for the words “set the same in few” substitute “ dispone the same or set the same ”.

###### *Redemptions Act 1661 (c.247) (Act of the Parliaments of Scotland)*

- 2 <sup>F1</sup> .....

#### Textual Amendments

- F1** Sch. 12 para. 2 repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5) (b)(c), sch. 15 (with ss. 119, 121)

###### *Real Rights Act 1693 (c.22) (Act of the Parliaments of Scotland)*

- 3 In the Real Rights Act 1693 (determination of preferences according to date and priority of registration), for the words from “All Infefments” to the end substitute “ reall rights in land shall in all competitions be preferable and preferred according to the date and priority of registration in the General Register of Sasines ”.

###### *Lands Clauses Consolidation (Scotland) Act 1845 (c.19)*

- 4 (1) The Lands Clauses Consolidation (Scotland) Act 1845 shall be amended in accordance with this paragraph.
- (2) In section 7 (parties under disability enabled to sell and convey), the words “heirs of entail,” “estate or,” “married women seised in their own right or entitled to terce or dower, or any other right or interest, husbands,” “or feoffees,” “and as to such married women as if they were sole,” and, in the last two places where they occur, “married women,” shall cease to have effect.
- (3) In section 8 (parties under disability may exercise other powers), the words from “power herein” to “therewith, and the” and, in both places where they occur, “feu duties, ground annuals,” shall cease to have effect.

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- (4) Sections 10 (where vendor absolutely entitled, lands may be sold on feu duties, &c.) and 11 (provisions incidental to section 10) shall cease to have effect.
- (5) In section 12 (power to purchase lands required for additional accommodation), the word “, feu,”, in both places where it occurs, shall cease to have effect.
- (6) In section 67 (purchase money payable to parties under disability to be deposited in bank), the words “heir of entail,” “married woman seised in her own right or entitled to terce or dower or any other right or interest, husband,” “on the same heirs, or”, “, or affecting succeeding heirs of entail in any such lands, whether imposed and constituted by the entailer, or in virtue of powers given by the entail, or in virtue of powers conferred by any Act of Parliament” and “same heirs, and the” shall cease to have effect.
- (7) In each of sections 69 (sums to be deposited, or paid to trustees) and 70 (sums to be paid to parties), the word “coverture,” and the word “husbands,” shall cease to have effect.
- (8) Section 73 (special provision for lands to be held under entail etc.) shall cease to have effect.
- (9) In each of sections 74 (completion of title on deposit of purchase money or compensation) and 76 (further provision in that regard), for the word “estate” substitute “right”.
- (10) In section 77 (application of money deposited), for the word “estates” substitute “rights”.
- (11) In section 79 (expenses in cases of money deposited), the words “feu or” and “, and of re-entailing any of such lands,” shall cease to have effect.
- (12) In section 80 (form of conveyances)—
  - (a) the words “feus and”, in both places where they occur, shall cease to have effect;
  - (b) for the words “the Schedules (A.) and (B.) respectively” substitute “Schedule (A.)”; and
  - (c) the words “the particular register of sasines kept for the county, burgh, or district in which the lands are locally situated, or in”, “for Scotland kept at Edinburgh, within sixty days from the last date thereof, which the respective keepers of the said registers are hereby authorized and required to do,”, “feudal” and from “: Provided always” to the end shall cease to have effect.
- (13) In section 93 (proceedings in regard to lands in commonty etc.), the words “, and if such lands be part of a barony a like notice shall be given to the superior or baron” shall cease to have effect.
- (14) In section 100 (deposit of money on refusal to accept redemption), for the word “estate” substitute “right”.
- (15) In the preamble to sections 107 to 111, the words “any feu duty, ground annual, casualty of superiority, or” shall cease to have effect.
- (16) In section 109 (discharge of part of lands from charge), the words “such feu duty, ground annual, casualty of superiority, or any” shall cease to have effect.

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- (17) In section 110 (deposit in case of refusal to discharge), the words “feu duty, ground annual, casualty of superiority,” shall cease to have effect.
- (18) In section 117 (power to purchase interests in lands the purchase of which may have been omitted by mistake), the word “estate,” in each place where it occurs, shall cease to have effect.
- (19) In section 118 (valuation of lands), for the words—
  - (a) “estate or interests” substitute “right or interest”; and
  - (b) “estate, or interest” substitute “right, or interest”.
- (20) In section 119 (payment of expenses of litigation), for the word “estate”, in both places where it occurs, substitute “right”.
- (21) In section 124 (lands to be conveyed to the purchasers), the words from “, by deed” to the end shall cease to have effect.
- (22) In section 125 (effect of word “dispone” in conveyances), for the word “estate” substitute “right”.
- (23) Sections 126 (superiorities not to be affected by lands being taken for the purposes of the Act) and 127 (antiquated provisions relating to the prison assessment) shall cease to have effect.
- (24) Schedule (B.) (form of conveyance in consideration of feu duty or rent-charge) shall cease to have effect.

*Entail Amendment Act 1848 (c.36)*

- 5 (1) The Entail Amendment Act 1848 shall be amended in accordance with this paragraph.
- (2) Sections 1 to 31 (heir born after date of entail may disentail; and heir born before such date may do so with consent of heir apparent under entail, etc.) shall cease to have effect.
- (3) In section 32 (form and effect of instrument of disentail etc.), the words from “may be in the form” to “in terms of this Act;” shall cease to have effect.
- (4) Sections 33 to 45 (application to court by heir of entail in possession of entailed estate, etc.) shall cease to have effect.
- (5) In section 47 (Act not to be defeated by trusts)—
  - (a) for the words “land or estate”, wherever they occur, substitute “land”;
  - (b) the words “dated on or after the first day of August one thousand eight hundred and forty-eight” shall cease to have effect;
  - (c) the words “fee simple”, in each of the three places where they occur, shall cease to have effect;
  - (d) for the words “lands or estate, with infeftment thereon in favour of such party” substitute “land”;
  - (e) the words “the superior of such lands or estate, and of” shall cease to have effect; and
  - (f) for the words “securities thereon” substitute “securities over such land”.
- (6) In section 48 (Act not to be defeated by life-rents)—

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- (a) for the words “It shall be competent to grant an estate in Scotland limited to a liferent interest in favour only of a party in life at the date of such grant; and where any land or estate” substitute “ Where any land ”;
  - (b) the words “dated on or after the first day of August one thousand eight hundred and forty eight”, “fee simple” and “the superior of such lands or estate, and of” shall cease to have effect;
  - (c) for the words “such estate” substitute “ such land ”; and
  - (d) for the word “thereon” substitute “ over such land ”.
- (7) In section 49 (Act not to be defeated by leases), the words “or estate”, in both places where they occur, and the words “dated on or after the said first day of August one thousand eight hundred and forty eight” shall cease to have effect.
- (8) Sections 50 (consents to be in writing and to be irrevocable) and 51 (court may make acts of sederunt) shall cease to have effect.
- (9) For section 52, substitute—

#### **“52 Interpretation**

In this Act, the word “land” shall include all heritages.”.

- (10) The Schedule (form of instrument of disentail) shall cease to have effect.

#### *Registration of Leases (Scotland) Act 1857 (c.26)*

- 6 (1) The Registration of Leases (Scotland) Act 1857 shall be amended in accordance with this paragraph.
- (2) In section 2 (effectuality of recorded leases), for the words “infetment is posterior in date to” substitute “ title is completed after ”.
- (3) Sections 4 (assignments in security), 5 (presentation for registration by person who is not original lessee or assignee), 8 (executor’s completion of title by recording notarial instrument), 9 (assignee dying without recording assignation) and 11 (entering trustee on sequestrated estate on register) shall cease to have effect.
- (4) In section 16(1) (equivalence of registration to possession), for the words “, writs of acknowledgment, and notarial instruments” substitute “ and writs of acknowledgment ”.
- (5) Schedules (C) (form of notarial instrument in favour of party who is not original grantee) and (F) (form of notarial instrument in favour of executor in recorded lease or assignation in security or of trustee on sequestrated estate) shall cease to have effect.

#### *Land Registers (Scotland) Act 1868 (c.64)*

- 7 (1) The Land Registers (Scotland) Act 1868 shall be amended in accordance with this paragraph.
- (2) In section 3 (writs of each county to be kept separate in general register of sasines), for the words—
- (a) “warrant of registration herein-after provided for,” substitute “ application for registration ”; and

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- (b) “said warrant,” substitute “ that application ”.
- (3) In section 5 (registration of writ in other county to which it refers etc.)—
  - (a) for the words from the beginning to “thereon applicable” substitute “ Where any writ contains land or heritages in more than one county and application has not been made for registration in relation ”;
  - (b) for the word “warrant”, where it occurs for the second time, substitute “ application ”;
  - (c) for the words “by a new warrant of registration thereon” substitute “ for registration ”;
  - (d) the words “in terms of such new warrant” shall cease to have effect; and
  - (e) for the words “such writ applies, and to which such new warrant is applicable” substitute “ it applies ”.
- (4) In section 6 (provision for writs transmitted by post to general register of sasines), the words “in terms of the warrant of registration thereon” shall cease to have effect.
- (5) In section 12 (registration in general register of sasines equivalent in certain cases to registration in the books of council and session)—
  - (a) for the words from the beginning to “being so registered in the said register of sasines,” substitute—

“A writ competent to be registered in the general register of sasines need not be presented to be registered in the books of council and session for the purpose of—

    - (a) preservation; or
    - (b) preservation and execution. If an application for registration of such a writ in the general register of sasines specifies that registration is for either of those purposes, then on registration in that register the writ shall be held to be registered also in the books of council and session for the purpose in question; and the writ registered”; and
  - (b) the words “and shall be in the form, as nearly as may be, of the Schedule (B.) to this Act annexed,” shall cease to have effect.
- (6) <sup>F2</sup> .....

**Textual Amendments**

**F2** Sch. 12 para. 7(6) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5) (b)(c), sch. 15 (with ss. 119, 121)

*Titles to Land Consolidation (Scotland) Act 1868 (c.101)*

- 8 (1) The Titles to Land Consolidation (Scotland) Act 1868 shall be amended in accordance with this paragraph.
- (2) In section 3 (interpretation)—
  - (a) for the words “The words superior, vassal, grantor,” substitute The words “ grantor ”;
  - (b) for the words “such superior, vassal, grantor” substitute “ such grantor ”;

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- (c) the words “The words “Crown writ” shall extend to and include all charters, precepts, and writs from Her Majesty, and from the Prince; and” shall cease to have effect;
  - (d) the definition of “charter” and of “writ” shall cease to have effect;
  - (e) in the definition of “deed” and of “conveyance”, the words “charters,” “whether containing a warrant or precept of sasine or not, and”, “feu contracts, contracts of ground annual,” “, whether such decrees contain warrant to infeft or precept of sasine or not,” and “, procuratories of resignation *an remanentiam*,” shall cease to have effect;
  - (f) the definition of “deed of entail” shall cease to have effect;
  - (g) in the definition of “instrument”, the words “authorized by this Act, or by any of the Acts hereby repealed,” shall cease to have effect; and
  - (h) the definition of “infeft” and “infeftment” shall cease to have effect.
- (3) Sections 4 (Acts repealed), 5 (in conveyances of land etc. not held burgage, certain clauses may be inserted in short forms), 6 (import of clause expressing manner of holding) and 7 (in conveyances of burgage property certain clauses may be inserted in given forms) shall cease to have effect.
- (4) In section 8 (import of certain clauses)—
- (a) for the words “forms Nos. 1 and 2” substitute “ form No. 1 ”;
  - (b) the words “, and to all open procuratories, clauses, and precepts, if any, and as the case may be,” shall cease to have effect;
  - (c) for the words “rents in these forms” substitute “ rents ”;
  - (d) for the words “warrandice in these forms” substitute “ warrandice ”;
  - (e) for the words “feu duties, casualties, and public burdens, in form No. 1 of schedule (B.) hereto annexed,” substitute “ public burdens ”;
  - (f) for the words “feu duties or other duties and services or casualties payable or prestable to the superior, and of all public, parochial,” substitute “ public ”;
  - (g) the words from “; and the clause of obligation” to “other public, parochial, and local burdens, due from or on account of the lands conveyed prior to the date of entry” shall cease to have effect; and
  - (h) for the words from “in these two forms” to “to them” substitute “ shall, unless specially qualified, have the meaning and effect assigned ”.
- (5) Sections 9 (conditions of entail may, in conveyances of entailed lands, be inserted by reference merely) and 10 (real burdens may be referred to as already in the register of sasines) shall cease to have effect.
- (6) In section 12 (clause directing part of conveyance to be recorded)—
- (a) the words from “with a warrant of registration” to “hereto annexed),” shall cease to have effect;
  - (b) for the words “such keeper shall” substitute “ the keeper may ”; and
  - (c) the words from—
    - (i) “and warrant of registration;” to “on whose behalf the conveyance is presented”; and
    - (ii) “or to expedite and record” to the end, shall cease to have effect.
- (7) Sections 14 (certain clauses in entails no longer necessary), 15 (instrument of sasine no longer necessary), 17 (not necessary to record the whole conveyance or

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discharge), 18 (instrument of resignation *an remanentiam* unnecessary), 19 (notarial instruments in favour of general disponees) and 23 (notarial instruments in favour of parties acquiring rights to unrecorded conveyances) shall cease to have effect.

- (8) In section 24 (mode of completing title by judicial factor on trust estate etc.), the words “, with warrant of registration thereon,” shall cease to have effect.
- (9) For section 25 (mode of completing title by trustee in sequestration etc.) substitute—

#### **“25 Deduction of title by liquidator**

The liquidator in the winding up of a company shall, for the purposes of sections 3 (disposition etc. by person with unrecorded title) and 4 (completion of title) of the Conveyancing (Scotland) Act 1924 (c.27) (including those sections as applied to registered leases by section 24 of that Act), be taken to be a person having right to any land belonging to the company.”.

- (10) In section 26 (heritable property conveyed for religious or educational purposes to vest in disponees or their successors), the words “with warrant of registration thereon in terms of this Act, or when followed by notarial instrument expedite, and with warrant of registration thereon recorded” and “feued,” shall cease to have effect.
- (11) Sections 27 to 50 (service of heirs: as saved by section 37(1)(d) of the Succession (Scotland) Act 1964 (c.41)) shall cease to have effect.
- (12) In section 51 (power of Court of Session to pass acts of sederunt)—
- (a) the word “said”, where it first occurs; and
  - (b) the words from “or Sheriffs of counties” to the end,
- shall cease to have effect.
- (13) In section 62 (effect of decree of adjudication or sale), for the words from “feudal titles to said lands” to the end, substitute “ title by recording the decree as a conveyance or by using the decree as a midcouple or link of title.”.
- (14) Sections 63 to 93 (Crown writs), 96 (provision for temporary absence or disability of Sheriff of Chancery), 100 (all writs and charters from subject superiors may refer to *tenendas* and *reddendo*) 104 to 109 (ways of completing title where superior did not or could not grant entry), 110 (mode of relinquishing superiority), 111 (investiture by over superior), 112 (forfeiture or relinquishment of rights of superiority does not operate as contravention of entail, etc.), 113 (payment in lieu of casualties of superiority in case of lands conveyed for religious purposes), 114 and 116 (provisions as respects writs of *clare constat*, etc.) shall cease to have effect.
- (15) For section 117 (heritable securities to form moveable estate; except where conceived in favour of heirs, excluding executors, and *quoad fiscum*) there shall be substituted—

#### **“117 Heritable security in succession of creditor in the security**

In the succession of the creditor in a heritable security, the security shall be moveable estate; except that in relation to the legal rights of the spouse, or of the descendants, of the deceased it shall be heritable estate.”.

- (16) Sections 118 (form of bond and disposition in security) and 119 (import of standard clauses in bond and disposition in security) shall cease to have effect.

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- (17) In section 120 (securities may be registered during lifetime of grantee etc.)—
- (a) “, whether dated before or after the commencement of this Act,”; and
  - (b) the proviso,
- shall cease to have effect.
- (18) Sections 121 to 123 (sale under pre-1970 heritable securities), 124 (form for transfer of pre-1970 heritable security) 126, 127 and 130 (completion of title by notarial instrument), 131 (saving), 132 and 133 (provision for forms as respects pre-1970 heritable securities), 134 (application of the Act to all heritable securities), 135 (applicability of pre-1845 forms for heritable securities), 137 (applicability to lands held by any description of tenure) and 141 (requirement for warrant of registration) shall cease to have effect.
- (19) In section 140 (additional sheets added to writs), the words “, and subsequent sheets (if any) shall be chargeable with the appropriate progressive duty” shall cease to have effect.
- (20) In section 142 (recording of conveyances in register of sasines)—
- (a) the words “, and all instruments hereby” and “, with warrants of registration written thereon respectively,” shall cease to have effect; and
  - (b) for the words “, in the same manner as instruments of sasine, or notarial instruments, are at present recorded, and the same” substitute “ and ”.
- (21) For section 143 substitute—

**“143 Recording anew**

Where there is an error or defect in recording a deed or conveyance in the Register of Sasines it shall be competent to record it anew.”.

- (22) Sections 144 (erasures), 145 (challenge to pre-1868 warrant of registration), 146 (insertion of real burdens etc. in a conveyance or deed applicable to lands), 147 (nothing in Act to affect prohibition against sub-infeudation or to take away or impair certain rights or remedies competent to a superior), 150 (debts affecting lands exchanged for other lands), 152 (lands held by the tenure of booking), 154 (personal interest of keeper of register), 156 (short form of letters of inhibition), 161 (review of certain judgments etc.), 162 (acts of sederunt for purposes of Act etc.) and 163 (old forms of conveyances may still be used) shall cease to have effect.
- (23) The Schedules, except Schedules (B.) No.1, (F.) No.1, (G.), (PP.) and (RR.), shall cease to have effect; and in Schedule (B.) No. 1 the words—
- (a) from “to be holden” to “as the case may be];”; and
  - (b) “feu duties, casualties, and”,
- shall cease to have effect.

*Conveyancing (Scotland) Act 1874 (c.94)*

- 9 (1) The Conveyancing (Scotland) Act 1874 shall be amended in accordance with this paragraph.
- (2) In section 3 (interpretation)—
- (a) in the definition of “Land” or “lands”, for the words “are or may be” substitute “ prior to the day appointed by order made under section 71 of the



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- Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) were, or might be, ”;
- (b) the definitions of “Estate in land” and of “Superior” and “superiority” shall cease to have effect;
  - (c) in the definition of “heritable securities” and “securities”, the words “, and shall also, when used in this Act, include real burdens and securities by way of ground annual” shall cease to have effect; and
  - (d) the definitions of “Infeftment”, “Feu” and “feu-duty” and “Casualties” shall cease to have effect.
- (3) Sections 4 (abolition of renewal of investiture), 5 (compositions payable by corporations or trustees or persons having separate interests), 6 (consolidation of superiority with property), 7 (consolidation not to affect or extend superior’s rights) and 8 (memorandum of allocation of feu-duty) shall cease to have effect.
- (4) In section 10 (completion of title when deceased heir not served etc.) (as saved by section 37(1)(d) of the Succession (Scotland) Act 1964 (c.41))—
- (a) the words “neither infeft nor served, but” and “by virtue of this Act,” shall cease to have effect;
  - (b) for the words “last infeft in” substitute “ who held the last recorded title to ”;
  - (c) the words “and assignation” shall cease to have effect;
  - (d) for the words—
    - (i) “be infeft in” substitute “ complete title to ”; and
    - (ii) “be held to be duly infeft in” substitute “ <sup>F3</sup> . . . have a completed title to ”; and
  - (e) the words from “Such petition” to the end shall cease to have effect.
- (5) Sections 14 (legal remedies to prevent entry preserved), 18 (entails not to bar redemption), 19 (redemption of casualties by a mid-superior), 20 (commutation of carriages and services by agreement etc.), 21 (commuted value to be feu-duty: not barred by entails), 22 (monopolies of superior’s agents annulled), 24 (where feu rights stipulating or inferring casualties are contracted to be granted), 25 (distinction between burgage and feu abolished etc.) and 26 (form of conveyances) shall cease to have effect.
- (6) In section 29 (general dispositions forming links of series of titles not objectionable on certain grounds)—
- (a) the words “under this Act, and no other decree, instrument, or conveyance” shall cease to have effect; and
  - (b) for the words “last infeft, shall contain” substitute “ who last held a recorded title contains ”.
- (7) Section 30 (conveyances and discharges of real burdens) shall cease to have effect.
- (8) <sup>F4</sup> .....
- (9) In section 35 (registration of a decree of division)—
- (a) the word “joint” shall cease to have effect;
  - (b) for the words “infeftment in, or of acquiring a personal right” substitute “ deducing title ”; and
  - (c) the words from “, as an assignation” to the end shall cease to have effect.

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- (10) In section 36 (effect of decree of sale of glebe), the words from “, with a holding” to the end shall cease to have effect.
- (11) Section 37 (distinction between heritage and conquest abolished) shall cease to have effect.
- (12) In section 44 (provisions for the case of a person appointed by the court to administer a trust)—
  - (a) after the words “When a trust title” insert “ to land or to a real right in or over land ”;
  - (b) for the words “a title by infeftment in the estate” substitute “ to complete, ”; and
  - (c) after the words “thereby appointed,” insert “ title to the land or real right ”.
- (13) In section 45 (how title is completed when the holder of an office or proprietor *isex officio* a trustee and his successor in office takes the trust), for the words—
  - (a) “estate in land” substitute “ land, or any real right in or over land, ”; and
  - (b) “by infeftment in the estate” substitute “ to the land or real right ”.
- (14) In section 47 (securities upon land, and relative personal obligations, to transmit against heirs and disponees), for the words—
  - (a) “upon an estate in land” substitute “ over land, or over a real right in land, ”;
  - (b) “such estate” substitute “ such land or real right ”; and
  - (c) “the estate” substitute “ the land or real right ”.
- (15) Sections 48 (provisions for disencumbering lands sold under heritable securities when no surplus emerges) and 49 (provision for disencumbering lands of heritable security) shall cease to have effect.
- (16) In section 51 (probate equivalent to will or extract for completing title)—
  - (a) the words “production to any notary public of the” shall cease to have effect;
  - (b) for the words “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” substitute “ an exemplification of such probate, shall for the purpose of completing a title to any land, or real right in land, ”; and
  - (c) the words “the production to such notary of” and from “, and it shall not” to the end shall cease to have effect.
- (17) Sections 52 (decrees of service unchallengeable on certain grounds), 53 (form of completing title to heritable securities under a general disposition), 57 (certain [<sup>F5</sup>offices] abolished, and the duties of the Sheriff of Chancery, &c. enlarged) and 58 (provisions as to Chancery office) shall cease to have effect.
- (18) In section 59 (application to lands held of the Crown and Prince) the words “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 cease to have effect.
- (19) Section 60 (title to private estates of Her Majesty in Scotland) shall cease to have effect.
- (20) Schedules A (form of notice to be given to a superior of change of ownership), B (form of summons of declarator and for payment of a casualty), C (form of minute for effecting consolidation of lands), D (being the form of memorandum of allocation of feu-duty; and not that Schedule D substituted for Schedule O by section 8(1) of

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the Conveyancing (Scotland) Act 1924), F (form of discharge of casualties) and G (form of memorandum constituting a feu-duty or additional feu-duty) shall cease to have effect.

- (21) <sup>F4</sup> .....
- (22) Schedule L (form of certificate where lands are sold under a heritable security and no surplus emerges and form of certificate where lands have been redeemed of a heritable security but discharge cannot be obtained) shall cease to have effect.
- (23) In Schedule M (form of assignation of right of relief etc.), the words from “, e.g. ],” to “*or as the case may be*” shall cease to have effect.
- (24) Schedule N (form of instrument in favour of a general disponee or his assignee in right of a heritable security) shall cease to have effect.

#### Textual Amendments

- F3** Words in Sch. 12 para. 9(4)(d)(ii) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)
- F4** Sch. 12 para. 9(8)(12) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)
- F5** Words in Sch. 12 para. 9(17) substituted (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 114(6), 129(3), sch. 13 para. 20 (with ss. 119, 121)

#### *Writs Execution (Scotland) Act 1877 (c.40)*

- 10 In section 6 of the Writs Execution (Scotland) Act 1877 (provision that writs registered in the Register of Sasines for preservation only may afterwards be registered for preservation and execution)—
- (a) the words “upon a warrant of registration” shall cease to have effect; and
  - (b) for the words “having a warrant of registration written thereon, bearing” substitute “ with, written on the extract, a statement to the effect ”.

#### *Conveyancing (Scotland) Acts (1874 and 1879) Amendment Act 1887 (c.69)*

- 11 (1) The Conveyancing (Scotland) Acts (1874 and 1879) Amendment Act 1887 shall be amended in accordance with this paragraph.
- (2) Sections 1 (limitation of liability of trustees for casualties), 3 (novodamus not challengeable because lands not resigned into superior’s hands) and 4 (decree of irritancy not final till extract recorded) shall cease to have effect.
- (3) In section 5 (letters of administration of will, &c. equivalent to will for authorisation of notary to expedite instrument)—
- (a) the words “The production to any notary public of” shall cease to have effect;
  - (b) for the words “or of an exemplification” substitute “ or an exemplification ”;
  - (c) the words “expediting a notarial instrument, or otherwise” shall cease to have effect;
  - (d) for the word “estate” substitute “ land or real right ”; and
  - (e) the words from “; and it shall not” to the end shall cease to have effect.

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*Military Lands Act 1892 (c.43)*

12 In section 25 of the Military Lands Act 1892 (application to Scotland), after subsection

(1) there shall be added—

“(1A) Any reference to an “estate” in land shall be construed as a reference to a right in land and as including a reference to ownership of land.”.

*Heritable Securities (Scotland) Act 1894 (c.44)*

13 (1) The Heritable Securities (Scotland) Act 1894 shall be amended in accordance with this paragraph.

(2) In section 6 (power to lease security subjects for seven years or under), for the words “disponed in security” substitute “ by virtue of an adjudication ”.

(3) In section 7 (sheriff may grant power to lease security subjects for longer periods, not more than 21 years for heritable property in general and 31 years for minerals)—

(a) for the words “disponed in security”, where they first occur, substitute “ by virtue of an adjudication ”; and

(b) where they occur for the second time they shall cease to have effect.

(4) Sections 8 (provisions for security holders becoming proprietors of security subjects), 9 (completion of title of security holders etc.) and 10 (purchaser’s title indefeasible) shall cease to have effect.

(5) In section 12 (provisions anent procedure), the word “, eight,” shall cease to have effect.

(6) In section 13 (provisions of Act to have effect notwithstanding incapacity of debtor etc.), for the words—

(a) “conferred by this Act” substitute “ under a heritable security ”;

(b) “under this Act” substitute “ by a creditor in exercise of those rights and powers ”; and

(c) “such debtor, proprietor,” substitute “ the debtor, proprietor, other ”.

(7) Sections 14 (provision as respects security holders under Registration of Leases (Scotland) Act 1857), 15 (jurisdiction of sheriff in all cases instituted under or in connection with Act), 16 (provision as to notice where debtor has died and heir cannot be traced) and 17 (saving) shall cease to have effect.

(8) Schedule (D.) (form of decree whereby security holder becomes proprietor of security subjects) shall cease to have effect.

*Entail (Scotland) Act 1914 (c.43)*

14 (1) The Entail (Scotland) Act 1914 shall be amended in accordance with this paragraph.

(2) In section 2 (Entail Act 1685 not to apply to future deeds)—

(a) for the words “The Entail Act, 1685, shall not apply to any” substitute “ No ”;

(b) for the words “, the effect of which would be” substitute “ shall be effective ”; and

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(c) the words “and any clause of consent to registration in the register of entails”, and the provisos, shall cease to have effect.

(3) Sections 3 to 8 (further facilities for disentail, etc.) shall cease to have effect.

(4) In section 10 (interpretation), the words “, unless the contrary intention appears,” and “, and the words “heir of entail” shall include the institute” shall cease to have effect.

#### *Conveyancing (Scotland) Act 1924 (c.27)*

15 (1) The Conveyancing (Scotland) Act 1924 shall be amended in accordance with this paragraph.

(2) In section 2(1)(b) (definition of “heritable securities” and “securities”), the words from “real burdens” to “them, and” shall cease to have effect.

(3) In section 3 (disposition etc. by person uninfert)—

- (a) the words “last infert or” shall cease to have effect; and
- (b) for the words from “in all respects” to the end substitute “ completed ”.

(4) In section 4 (completion of title)—

- (a) in subsection (1), for the words “last infert” substitute “ having the last recorded title ”;
- (b) in subsection (2)—
  - (i) for the words “last infert” substitute “ having the last recorded title ”; and
  - (ii) the words “by infertment” shall cease to have effect;
- (c) in subsection (3)—
  - (i) the words from “, or in the case” to “that Schedule” shall cease to have effect; and
  - (ii) for the words from “last infert” to the end substitute “ having the last recorded title to the heritable security ”; and
- (d) in subsection (4)—
  - (i) for the words “infert him therein and in” substitute “ completed his title thereto and to ”;
  - (ii) the words “, or in the case of a ground annual in or as nearly as may be in the terms of Form No. 6 of that Schedule” and from “And on such notice” to the end, shall cease to have effect.

(5) In section 5 (deduction of title)—

- (a) in subsection (1)—
  - (i) for the words “any estate or interest in or security over” substitute “ any real right in ”;
  - (ii) after the words “instrument could” insert “ (before the day appointed by order made under section 71 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5)) ”; and
  - (iii) for the words “an estate or interest in or security over” substitute “ a real right in ”;
- (b) in subsection (2)(a)—
  - (i) the words “infert or uninfert, or” shall cease to have effect; and
  - (ii) for the words “and seventh sections” substitute “ section ”; and

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- (c) in subsection (3)(a), the words “last infeft or” shall cease to have effect.
- (6) Section 6 (notice of title equivalent to notarial instrument) shall cease to have effect.
- (7) In section 8 (description by reference), subsection (2) shall cease to have effect.
- (8) <sup>F6</sup> .....
- (9) Sections 10 (warrants of registration), 11 (consolidation of superiority and property), 12 (abolition and commutation of grain, etc., feu-duties) and 13 (allocation of feu-duty) shall cease to have effect.
- (10) In section 19 (applicability of forms prescribed by Act), the words “or fee” shall cease to have effect.
- (11) Sections 20 (ratification by married woman) and 23 (assignation of ground-annuals) shall cease to have effect.
- (12) In section 24 (registered leases: assimilation of forms)—
  - (a) the words “, including power of sale and other rights under a bond and disposition in security,” and “, and such forms shall have the same force and effect as the corresponding forms prescribed by the Registration of Leases (Scotland) Act 1857,” shall cease to have effect;
  - (b) in paragraph (1) of the proviso—
    - (i) after the word “ “lessee”” there shall be inserted “ and ”; and
    - (ii) the words from “, for “infeft”” to the end shall cease to have effect; and
  - (c) in paragraph (5) of the proviso, the words from “by notarial instrument” to “law and practice” shall cease to have effect.
- (13) Sections 25 (form of bond and disposition in security) and 26 (heritable creditors’ remedies for recovery of feu-duties and ground-annuals) shall cease to have effect.
- (14) Sections 28 to 39 (provisions as respects heritable securities) shall cease to have effect.
- (15) In section 40(1) (exposure in lots and apportionment of feu-duty)—
  - (a) for the words “The land, or any part thereof,” substitute “ Land, or any part thereof, sold in exercise of a power of sale under a bond and disposition in security ”; and
  - (b) the words “feu-duty, ground-annual, stipend,” and “feu-duty and casualties, ground annual, stipend or” shall cease to have effect.
- (16) In section 41(1) (purchasers protected), for the words “under sections thirty-two to forty, inclusive, of this Act” substitute “ relating to the redemption or calling up of, or a sale under, a bond and disposition in security ”.
- (17) Sections 42 (mode of disburdening land sold under power of sale in heritable security) and 43 (application of Act to all heritable securities) shall cease to have effect.
- (18) In section 49 (saving), subsection (1) shall cease to have effect.
- (19) In Schedule A—
  - (a) the heading to Form No.1 shall be—

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“CLAUSE OF DEDUCTION OF TITLE IN A DISPOSITION OF LAND  
WHERE THE GRANTEE DOES NOT HAVE A RECORDED TITLE”

and

- (b) in Form No.1, for the words—  
(i) “*last infeft*” substitute “ *having last recorded title* ”; and  
(ii) “*infeftment*” substitute “ *recorded title* ”.

(20) In Schedule B (notice of title)—

- (a) in Form No.1, for the words—  
(i) “*last infeft*” substitute “ *having last recorded title* ”; and  
(ii) “*infeftment*” substitute “ *recorded title* ”;  
(b) in Form No. 3, the words “*last infeft therein, or*” shall cease to have effect;  
and  
(c) Forms Nos. 4 and 6 shall cease to have effect.

(21) In the Notes to Schedule B—

- (a) in Note 1, for the word “*infeftment*” substitute “ *recorded title* ”; and  
(b) in Note 3—  
(i) for the words “*infeftment upon*” substitute “ *title to* ”; and  
(ii) for the words “*including a ground annual has been taken*” substitute  
“ *has been completed* ”.

(22) Schedules F (warrants of registration), G (minute of consolidation) and H (memorandum of allocation of feu duty not endorsed on a deed), and the Notes to Schedule F, shall cease to have effect.

(23) Schedules K, L, M and N (forms relating to bonds and dispositions in security), and the Notes to Schedule K, shall cease to have effect.

**Textual Amendments**

**F6** Sch. 12 para. 15(8) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)

*Church of Scotland (Property and Endowments) Act 1925 (c.33)*

16 (1) The Church of Scotland (Property and Endowments) Act 1925 shall be amended in accordance with this paragraph.

(2) In section 22 (burgh churches)—

(a) <sup>F7</sup> .....

(b) in subsection (3), the word “*feu*”,

shall cease to have effect.

(3) Section 27 (proceedings relating to certain matters) shall cease to have effect.

(4) In section 28 (transfer of rights in parish churches and manses)—

(a) in subsection (3)(b)—

(i) for the words “*all rights of property in*” substitute “ *the ownership of* ”; and

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- (ii) the words from “, to the same effect” to the end shall cease to have effect; and
- (b) subsections (6) to (8) shall cease to have effect.
- (5) In section 30(3) (orders relating to glebes)—
  - (a) in paragraph (c), the words from “, whether as” to “in place of the minister”;
  - (b) in paragraph (e), the words “feu-duties and Government or other” and from “under or in pursuance” to “made by a minister”; and
  - (c) paragraph (f),
 shall cease to have effect.
- (6) Section 31 (redemption of feu-duty affecting glebe) shall cease to have effect.
- (7) In section 34 (provisions relating to quoad sacra parishes)—
  - (a) in subsection (1)—
    - (i) in paragraph (b), the words “and certified by the Clerk of Teinds”; and
    - (ii) paragraph (e);
  - (b) subsection (3); and
  - (c) in subsection (4)(iii), the words “feu-duties, ground annuals, bonds of annual rent, or other”, “with the sanction of the Court of Teinds” and “or payment of the feu— duty thereon”,
 shall cease to have effect.
- (8) In section 35(7) (interpretation), the words “uninfeft or infeft” shall cease to have effect.
- (9) In section 36 (requirements of parish to be first charge on endowments), the proviso shall cease to have effect.
- (10) In section 37 (powers of General Trustees), the words “heritor or other” shall cease to have effect.
- (11) Sections 39 (allocation of certain money by General Trustees), 40 (redemption of manse maill, etc.) and 41 (provisions relating to Court of Teinds) shall cease to have effect.
- (12) In section 42 (application to Crown lands), the words from “, and to the teinds” to the end shall cease to have effect.
- (13) Sections 45 (saving for obligations of relief) and 46 (saving for superiors) shall cease to have effect.
- (14) In section 47 (interpretation)—
  - (a) in subsection (1), in the definition of “Stipend”, the words “, including any allowance for communion elements payable by heritors out of teinds”; and
  - (b) subsections (2) and (3),
 shall cease to have effect.
- (15) The First to the Seventh Schedules shall cease to have effect.



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#### Textual Amendments

**F7** Sch. 12 para. 16(2)(a) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)

#### *Church of Scotland (Property and Endowments) Amendment Act 1933 (c.44)*

- 17 (1) The Church of Scotland (Property and Endowments) Amendment Act 1933 shall be amended in accordance with this paragraph.
- (2) In section 7 (suppression or union of parishes)—
- (a) paragraph (ii) of the proviso; and
  - (b) the word “and” immediately preceding that paragraph,
- shall cease to have effect.
- (3) In section 8(1) (obligation of third party as respects endowments of parish quoad sacra etc.), the words “, or any obligation at common law for payment of the stipend or part of the stipend of the parish being a parish quoad omnia” shall cease to have effect.
- (4) In section 9 (rights of superiors and others)—
- (a) subsections (1) and (2) shall cease to have effect; and
  - (b) in subsection (3)—
    - (i) for the word “heritor”, in both places where it occurs, substitute “person”; and
    - (ii) the words “or take in feu” and “or feu-duty” shall cease to have effect.
- (5) Sections 10 (vesting of stipends of ministers of burgh churches, etc.) and 11 (vesting of glebe feu-duties etc.) shall cease to have effect.

#### *Conveyancing Amendment (Scotland) Act 1938 (c.24)*

- 18 (1) The Conveyancing Amendment (Scotland) Act 1938 shall be amended in accordance with this paragraph.
- (2) Sections 6 (actions of declarator of irritancy) and 8 (prohibition of subinfeudation annulled) shall cease to have effect.
- (3) <sup>F8</sup> .....

#### Textual Amendments

**F8** Sch. 12 para. 18(3) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)

#### *National Parks and Access to the Countryside Act 1949 (c.97)*

- 19 (1) The National Parks and Access to the Countryside Act 1949 shall be amended in accordance with this paragraph.
- (2) For section 26 substitute—

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## **“26 Application of Part III to Scotland**

In the application of this Part of this Act to Scotland the expression “limited owner”, in relation to land, means a liferenter in possession of that land.”.

- (3) In section 114(1) (interpretation), in the definition of “owner”—
- (a) after the words “except in Part III of this Act” insert “ or in relation to Scotland, ”; and
  - (b) the words “and as respects Scotland has the meaning assigned to it by section twenty-six of this Act” shall cease to have effect.

### *Town and Country Planning (Scotland) Act 1954 (c.73)*

- 20 (1) The Town and Country Planning (Scotland) Act 1954 shall be amended in accordance with this paragraph.
- (2) In section 55 (compensation for damage to requisitioned land), for subsection (2) substitute—
- “(2) The said values are—
- (a) the value, at the time when the compensation accrues due, of the land in question (it being presumed that the land is subject to any servitude or other restriction then affecting it but otherwise is free from burdens); and
  - (b) the value which such land would have at that time (on the same presumption as is mentioned in paragraph (a) above) if the land were then in the state in which it was when possession was taken in the exercise of emergency powers.”.
- (3) Section 69 (interpretation) shall cease to have effect.

### *Land Powers (Defence) Act 1958 (c.30)*

- 21 In section 25(2) of the Land Powers (Defence) Act 1958 (interpretation), after paragraph
- (b) there shall be inserted—
    - “(bb) any reference to an “interest” in land, however expressed, shall be construed as a reference to a right in, or interest in, land and as including a reference to ownership of land;”.

### *Opencast Coal Act 1958 (c.69)*

- 22 In section 52 of the Opencast Coal Act 1958 (general application to Scotland)—
- (a) in subsection (2) in the definitions of “freehold interest” and “owner”, the words “of the *dominium utile*” shall cease to have effect; and
  - (b) subsections (6) to (8) shall cease to have effect.

### *Caravan Sites and Control of Development Act 1960 (c.62)*

- 23 In section 32(1) of the Caravan Sites and Control of Development Act 1960 (application of Part I of Act to Scotland), for paragraph (d) substitute—

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- “(d) the reference in subsection (3) of section one of this Act to an estate or interest in land shall be construed as a reference to a right in, or to, land and the references in that subsection and in section twelve of this Act to a licence in respect of land shall be construed as not including a tenancy of land;”.

*Flood Prevention (Scotland) Act 1961 (c.41)*

- 24 In section 15(1) of the Flood Prevention (Scotland) Act 1961 (interpretation), in the definition of “interest”, for the words “estate in or right” substitute “right in or”.

*Land Compensation (Scotland) Act 1963 (c.51)*

- 25 (1) The Land Compensation (Scotland) Act 1963 shall be amended in accordance with this paragraph.
- (2) In section 10 (consolidation of proceedings on claims in respect of several interests in the same land), for the words “acquisition of the several interests” substitute “acquisition of several interests”.
- (3) In section 20 (consideration in respect of discharge of feu-duty etc.)—
- (a) in subsection (1), the words “the *dominium utile* in”, in both places where they occur, shall cease to have effect;
  - (b) in subsection (2), the words “feu-duty, or ground annual or other” and “(not being stipend or standard charge in lieu of stipend)” shall cease to have effect;
  - (c) in subsection (3), for the words “*dominium utile*” substitute “land”;
  - (d) in subsection (7), the words “*dominium utile* in any” shall cease to have effect; and
  - (e) in subsection (8), the words “the *dominium utile* in” shall cease to have effect.
- (4) In section 27(3) (application for certificate of alternative development), the words “and that interest is the *dominium utile* of the land”, “feu-duty or ground annual or other” and “(not being stipend or standard charge in lieu of stipend)” shall cease to have effect.
- (5) In section 28 (provisions as respect certain regulations under section 275(1)(c) of the Town and Country Planning (Scotland) Act 1997)—
- (a) in paragraph (e), the words “the *dominium utile* of” and, in both places where they occur, “feu-duty or”; and
  - (b) in paragraph (f), the words “the *dominium utile* of”, shall cease to have effect.
- (6) In section 32(6)(b) (provision for notification to planning authority in certain circumstances), for the words “*dominium utile*” substitute “ownership”.
- (7) In section 45 (interpretation)—
- (a) after subsection (1) insert—
- “(1A) Any reference in this Act to an “interest” in land shall be construed as a reference to a right in land and as including a reference to ownership of land.”;

and

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(b) subsections (8) and (9) shall cease to have effect.

(8) In Schedule 2 (acquisition of houses which do not meet the tolerable standard), in paragraph 2(2), the words “the superior of, and” shall cease to have effect.

*Local Government (Development and Finance)(Scotland) Act 1964 (c.67)*

26 In section 7 of the Local Government (Development and Finance)(Scotland) Act 1964 (power to make advances for erection of buildings), for subsection (6) substitute—

“(6) The security for an advance made under this section shall be taken at the time of making or, in the case of an agreement to sell or let the land, at the time of the conveyance or of the lease.”.

*Forestry Act 1967 (c.10)*

27 (1) The Forestry Act 1967 shall be amended in accordance with this paragraph.

(2) In section 5(3) (recording of forestry dedication agreement affecting land in Scotland), in the proviso, for the words “completed by infeftment” substitute “ title has been completed ”.

(3) In section 34(3) (Scottish interpretation of expression “owner”), the words “the proprietor of the *dominium utile* or, in the case of land other than feudal land, is” shall cease to have effect.

(4) In section 49 (interpretation), subsection (3) shall cease to have effect.

(5) In Schedule 2 (conveyancing and other provisions connected with forestry dedication), in paragraph 4, for sub-paragraph (1) substitute—

“(1) In the case of land in Scotland, a liferenter in possession of the land shall have power to enter into forestry dedication agreements relating to, or to any part of, the land.”.

*Countryside (Scotland) Act 1967 (c.86)*

28 (1) The Countryside (Scotland) Act 1967 shall be amended in accordance with this paragraph.

(2) In section 13(4) (certain persons who have power to enter access agreements), for the words “person, being the liferenter or the heir of entail,” substitute “ liferenter ”.

(3) In section 16 (effect of access agreement or order on rights and liabilities of persons interested in land)—

(a) in each of subsections (6)(a) and (7)(a), for the words “an interest” substitute “ a right ”; and

(b) in subsection (9), for the words “completed by infeftment” substitute “ title has been completed ”.

(4) In each of sections 24(1) (acquisition, by planning authority, of land for public access) and 25(1) (acquisition, by Secretary of State, of land for public access), the word “feu,” shall cease to have effect.

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

**Changes to legislation:** Abolition of Feudal Tenure etc. (Scotland) Act 2000, SCHEDULE 12 is up to date with all changes known to be in force on or before 26 July 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)

- (5) In section 38(5) (recording of public path creation agreement), in the proviso, for the words “completed by infefment” substitute “ title has been completed ”.
- (6) In section 49A (management agreements)—
  - (a) in subsection (5), for the words “person, being the liferenter or the heir of entail,” substitute “ liferenter ”; and
  - (b) in subsection (9), for the words “completed by infefment” substitute “ title has been completed ”.
- (7) In section 78(1) (interpretation), in the definition of “interest”, for the words “the ownership of an interest in land” substitute “ ownership ”.

*Countryside Act 1968 (c.41)*

- 29
- (1) The Countryside Act 1968 shall be amended in accordance with this paragraph.
  - (2) In section 15(6) (modification of section in its application to Scotland), in the proviso to the inserted subsection (4), for the words “completed by infefment” substitute “ title has been completed ”.
  - (3) In section 24(2) (acquisition of land for planting trees in interests of amenity), the word “feu,” shall cease to have effect.

*Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35)*

- 30
- (1) The Conveyancing and Feudal Reform (Scotland) Act 1970 shall be amended in accordance with this paragraph.
  - (2) <sup>F9</sup> .....
  - (3) <sup>F9</sup> .....
  - (4) Sections 3 to 6 (allocation of feuduties and ground annuals) shall cease to have effect.
  - (5) <sup>F9</sup> .....
  - (6) In section 9 (which introduces the form of heritable security known as a standard security)—
    - (a) in subsection (2), for the words “interest in land” substitute “ land or real right in land, ”;
    - (b) in subsection (3), for the words “an interest” substitute “ land or a real right ”;
    - (c) in subsection (4), for the words “of an interest” substitute “ of land or of a real right ”; and
    - (d) in subsection (8)—
      - (i) in paragraph (a), for the word “interest”, in both places where it occurs, substitute “ land or real right ”;
      - (ii) <sup>F9</sup> .....
      - (iii) in paragraph (c), the words “feuduty, ground annual,” shall cease to have effect.
  - (7) In section 10(2) (clause of warrandice to import absolute warrandice), for the word “interest” substitute “ land or real right ”.

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

*Changes to legislation: Abolition of Feudal Tenure etc. (Scotland) Act 2000, SCHEDULE 12 is up to date with all changes known to be in force on or before 26 July 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)*

- (8) In section 11(1) (effect of recorded standard security), for the words from “the interest” to “a security” substitute “ in the grantee a real right in security ”.
- (9) In section 12 (standard security may be granted by person uninfert)—
- (a) in subsection (1)—
    - (i) for the words “an interest” substitute “ land or a real right ”;
    - (ii) the words “having right to that interest, but” shall cease to have effect; and
    - (iii) for the word “interest”, where it last occurs, substitute “ land or real right ”;
  - (b) in subsection (2)—
    - (i) for the word “interest” substitute “ land or real right in land ”; and
    - (ii) for the words “last infert” substitute “ having the last recorded title ”.
- (10) In section 13(1) (ranking of standard securities), for the words “interest in land or any part thereof, or of the subsequent assignation or conveyance of that interest” substitute “ land or real right in land or over any part thereof, or of the subsequent assignation or conveyance of that land or real right, ”.
- (11) In section 15(1) (restriction of standard security)—
- (a) for the word “interest”, where it first occurs, substitute “ land or real right ”; and
  - (b) for the words from “to the interest” to “and the interest in land” substitute “ to the land or real right contained in the standard security other than the part of that land or real right disburdened by the deed; and the land or real right ”.
- (12) In section 16 (variation of standard security)—
- (a) in each of subsections (1) and (2), for the word “interest” substitute “ land or real right ”; and
  - (b) in subsection (4), for the words “interest in land, or” substitute “ land or real right in land, or over ”.
- (13) In section 17 (discharge of standard security), for the word “interest” substitute “ land or real right ”.
- (14) In section 18(3) (redemption of standard security), for the word “interest” substitute “ land or real right ”.
- (15) In section 19 (calling-up of standard security)—
- (a) in subsection (2), for the words “last infert in” substitute “ having the last recorded title to ”; and
  - (b) in subsection (3), for the words—
    - (i) “last infert in” substitute “ having the last recorded title to ”; and
    - (ii) “last infert have” substitute “ having the last recorded title have ”.
- (16) In section 30 (interpretation)—
- (a) in subsection (1), for the definition of “interest in land” substitute—
 

““real right in land” has the meaning assigned to it by the said section 9(8);”;

and
  - (b) in subsection (2), the definition of “infert” shall cease to have effect.

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

**Changes to legislation:** *Abolition of Feudal Tenure etc. (Scotland) Act 2000, SCHEDULE 12 is up to date with all changes known to be in force on or before 26 July 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)*

- (17) Sections 33 (form of notice calling-up heritable security), 34 (amendment of section 34 of Conveyancing (Scotland) Act 1924), 35 (power of creditor in bond and disposition in security to sell to include power to sell by private bargain) and 39 (amendment of section 8 of Heritable Securities (Scotland) Act 1894) shall cease to have effect.
- (18) In section 41(1) (restriction on effect of reduction of certain discharges of securities) —
- (a) for the words “to any subsequent interest in the land, acquired” substitute “who subsequently acquires the land or a real right in or over it”; and
  - (b) the words “of the interest” shall cease to have effect.
- (19) In section 43(1) (interpretation), the definition of “the Act of 1894” shall cease to have effect.
- (20) Section 49 (abolition of heritor’s right of pre-emption of glebe) shall cease to have effect.
- (21) In section 51 (application to the Crown), for the words “held of the Crown and of” substitute “owned by the Crown or by”.
- (22) <sup>F9</sup> .....
- (23) In the Notes to Schedule 2 (which relates to forms of standard security)—
- (a) for note 1 substitute—

*“Note 1.—The security subjects shall be described sufficiently to identify them; but this note is without prejudice to any additional requirement imposed as respects any register.*

.”
  - (b) in note 2—
    - (i) the words “*ground annual or*” shall cease to have effect; and
    - (ii) for the word “infefment” substitute “recorded title”; and
  - (c) in note 3—
    - (i) for the words “has been infef in” substitute “has a recorded title to”;
    - (ii) for the words “has not previously been infef in” substitute “does not have a recorded title to”;
    - (iii) the words “*ground annual or*” shall cease to have effect;
    - (iv) for the words “last infef in” substitute “who last had a recorded title to”; and
    - (v) for the word “infefment” substitute “recorded title”.
- (24) In Schedule 3 (the standard conditions), in condition 10(3), the words “feuduties, ground annuals or, as the case may be,” shall cease to have effect.
- (25) In the Notes to Schedule 4 (which relates to forms of deeds of assignation and of restriction etc.), in note 3, for the words “infefment upon a standard security has been taken” substitute “title to a standard security has been completed”.
- (26) In schedule 8 (excluded enactments), paragraphs 2, 3, 7 to 14, 16 and 17, 18 to 22, 24 and 26 to 30 shall cease to have effect.

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### Textual Amendments

**F9** Sch. 12 para. 30(2)(3)(5)(6)(d)(ii)(22) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)

### Commencement Information

**II** Sch. 12 para. 30 wholly in force (so far as unrepealed) at 28.11.2004; Sch. 12 para. 30(23)(a) in force at Royal Assent, see s. 77(1)(b)(2)(a); Sch. 12 para. 30 otherwise in force (so far as unrepealed) at 28.11.2004 by s. 71, S.S.I. 2003/456, art. 2

### *Agriculture Act 1970 (c.40)*

- 31 (1) Section 33 of the Agriculture Act 1970 (miscellaneous amendments relating to amalgamations) shall be amended in accordance with this paragraph.
- (2) In subsection (2)—
- (a) in paragraph (b), for the words “in which an estate or interest is held by a liferenter or an heir of entail” substitute “ which is held by a liferenter ”;
  - (b) for the words “the liferenter or the heir of entail” substitute “ or the liferenter ”; and
  - (c) for the words “that estate or interest” substitute “ the land ”.
- (3) Subsection (5) shall cease to have effect.

### *Housing (Financial Provisions) (Scotland) Act 1972 (c.46)*

- 32 In section 78(1) of the Housing (Financial Provisions) (Scotland) Act 1972 (interpretation), in the definition of “land”, for the word “estate” substitute “ right ”.

### *Prescription and Limitation (Scotland) Act 1973 (c.52)*

- 33 (1) The Prescription and Limitation (Scotland) Act 1973 shall be amended in accordance with this paragraph.
- (2) For sections 1 and 2 there shall be substituted—

#### “1 Validity of right

- (1) If land has been possessed by any person, or by any person and his successors, for a continuous period of ten years openly, peaceably and without any judicial interruption and the possession was founded on, and followed—
- (a) the recording of a deed which is sufficient in respect of its terms to constitute in favour of that person a real right in—
    - (i) that land; or
    - (ii) land of a description *habile* to include that land; or
  - (b) registration of a real right in that land, in favour of that person, in the Land Register of Scotland, subject to an exclusion of indemnity under section 12(2) of the Land Registration (Scotland) Act 1979 (c.33),



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then, as from the expiry of that period, the real right so far as relating to that land shall be exempt from challenge.

- (2) Subsection (1) above shall not apply where—
  - (a) possession was founded on the recording of a deed which is *invalidex facie* or was forged; or
  - (b) possession was founded on registration in the Land Register of Scotland proceeding on a forged deed and the person appearing from the Register to have the real right in question was aware of the forgery at the time of registration in his favour.
- (3) In subsection (1) above, the reference to a real right is to a real right which is registrable in the Land Register of Scotland or a deed relating to which can competently be recorded; but this section does not apply to servitudes or public rights of way.
- (4) In the computation of a prescriptive period for the purposes of this section in a case where the deed in question is a decree of adjudication for debt, any period before the expiry of the legal shall be disregarded.
- (5) Where, in any question involving any foreshore or any salmon fishings, this section is pled against the Crown as owner of the regalia, subsection (1) above shall have effect as if for the words “ten years” there were substituted “twenty years”.
- (6) This section is without prejudice to section 2 of this Act.

## 2 Special cases

- (1) If—
  - (a) land has been possessed by any person, or by any person and his successors, for a continuous period of twenty years openly, peaceably and without any judicial interruption; and
  - (b) the possession was founded on, and followed the execution of, a deed (whether recorded or not) which is sufficient in respect of its terms to constitute in favour of that person a real right in that land, or in land of a description *habile* to include that land, then, as from the expiry of that period, the real right so far as relating to that land shall be exempt from challenge except on the ground that the deed is *invalidex facie* or was forged.
- (2) This section applies—
  - (a) to the real right of the lessee under a lease; and
  - (b) to any other real right in land, being a real right of a kind which, under the law in force immediately before the commencement of this Part of this Act, was sufficient to form a foundation for positive prescription without the deed constituting the title to the real right having been recorded,but does not apply to servitudes or public rights of way.
- (3) This section is without prejudice to section 1 of this Act or to section 3(3) of the Land Registration (Scotland) Act 1979 (c.33).”.

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- (3) In section 5(1) (provision as to what is to be treated as a deed for the purposes of sections 1, 2 and 3 of the Act), for the words “title to an interest in land shall be treated as a deed sufficient to constitute that title” substitute “right in land shall be treated as a deed sufficient to constitute that right”.
- (4) In section 15(1) (interpretation), the definition of “interest in land” shall cease to have effect.
- (5) In Schedule 1 (obligations affected by certain prescriptive periods)—
- (a) in paragraph 1, heads (iii) and (iv) of sub-paragraph (a); and
  - (b) in paragraph 2(f), the words “terce, courtesy,”
- shall cease to have effect.
- 34 Paragraph 33(1) and (5)(a) of this schedule, and the provisions of schedule 13 to this Act in so far as relating to Schedule 1.1(a)(iii) and (iv) to the Prescription and Limitation (Scotland) Act 1973, shall not affect the application of section 6 of that Act to any obligation falling due on or before the appointed day.

*Land Compensation (Scotland) Act 1973 (c.56)*

- 35 In section 80 of the Land Compensation (Scotland) Act 1973 (interpretation), after subsection (1) insert—
- “(1A) Any reference in this Act to an “interest” in land shall be construed as a reference to a right in land and as including a reference to ownership of land.”.

*Offshore Petroleum Development (Scotland) Act 1975 (c.8)*

- 36 (1) The Offshore Petroleum Development (Scotland) Act 1975 shall be amended in accordance with this paragraph.
- (2) In section 14(1) (power to require information as to interests in land), the word “superior,” shall cease to have effect.
- (3) In section 20 (short title, interpretation and extent)—
- (a) in subsection (2)—
    - (i) in the definition of “Crown interest”, the words “estate or” shall cease to have effect; and
    - (ii) for the definition of “land” substitute—
 

““land” includes the foreshore and other land covered with water and, except where the context otherwise requires—

      - (a) any interest in, or right over, land; and
      - (b) any other heritable property;”;

and
  - (b) in subsection (3), the words “estate or” shall cease to have effect.

*Scottish Development Agency Act 1975 (c.69)*

- 37 (1) The Scottish Development Agency Act 1975 shall be amended in accordance with this paragraph.

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- (2) In section 9 (acquisition and disposal of land), in subsection (1)(a), the word “feu,” shall cease to have effect.
- (3) In section 11(1) (power to obtain information), the word “superior,” shall cease to have effect.
- (4) In section 25(1) (interpretation), for the definition of “land” substitute—
  - ““land” includes—
  - (a) the foreshore and other land covered with water;
  - (b) any interest in, or right over, land; and
  - (c) any other heritable property;”.

*Aircraft and Shipbuilding Industries Act 1977 (c.3)*

- 38 In section 56(3) (interpretation of expressions relating to land in Scotland), for paragraph (b) substitute—
- “(b) “rights of ownership” means the rights—
    - (i) of an owner; or
    - (ii) of a tenant under a lease;”.

*Land Registration (Scotland) Act 1979 (c.33)*

- 39 (1) The Land Registration (Scotland) Act 1979 shall be amended in accordance with this paragraph.
- (2) In section 2(1)(a) (provision for registration in the land register)—
- (a) in sub-paragraph (i)—
    - (i) for the words “feu, long lease or security by way of contract of ground annual” substitute “ long lease ”; and
    - (ii) for the words “feuar, lessee or debtor in the ground annual” substitute “ lessee ”; and
  - (b) in sub-paragraph (v), for the words “, udal tenure or a kindly tenancy” substitute “ or udal tenure ”.
- (3) In section 3 (effect of registration)—
- (a) in subsection (3), paragraph (c) shall cease to have effect;
  - (b) in subsection (4), paragraph (b) shall cease to have effect; <sup>F10</sup> . . .
  - (c) <sup>F10</sup> . . . . .
- (4) In section 6 (title sheets)—
- (a) in subsection (1)(a), for the words “*dominium utile*” substitute “ land ”; and
  - (b) in subsection (3), the words “over-feuduty or”, in both places where they occur, shall cease to have effect.
- (5) In section 12 (indemnity in respect of loss)—
- (a) in subsection (3)(m), the words “a superior, a creditor in a ground annual or”, “the feu writ, the contract of ground annual or”, “, as the case may be,” “superior, creditor or” and, in both places where they occur, “feuduty, ground annual or”; and
  - (b) in subsection (4)(a) the words “over-feuduty or”,

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shall cease to have effect.

(6) <sup>F10</sup> . . . . .

(7) In section 16 (omission of certain clauses in deeds)—

- (a) subsection (2); and
- (b) in subsection (3)(b), the words “feuduties, ground annuals,” and “and, in the case of a grant of land in feu, of all feuduties payable by the grantor to his superiors from and after the date of entry”,

shall cease to have effect.

(8) In section 20 (tenants-at-will)—

- (a) in subsection (3), paragraph (ii), and the word “; and” immediately preceding that paragraph, shall cease to have effect;
- (b) in subsection (5), for the words “, restriction or redemption” substitute “ or restriction ”;
- (c) in subsection (6), the words “, and all such feuduties, ground annuals or other periodical payments as are mentioned in subsection (3)(ii) above” shall cease to have effect; and
- (d) in subsection (8)(a), sub-paragraph (ii) shall cease to have effect.

(9) In section 21 (provisions supplementary to section 20)—

- (a) in subsection (8), for the words “infert in” substitute “ owner of”;
- (b) for subsection (9) substitute—

“(9) Any condition or provision to the effect that a person with an interest in land shall be entitled to a right of pre-emption in the event of a sale of the land, or of any part of the land, by the proprietor for the time being, shall not be capable of being enforced where the sale is by a landlord to his tenant-at-will under section 20 of this Act.”;

and

- (c) in subsection (10) for the words “grant by him of a feu” substitute “ disposition by him ”.

(10) In section 26 (application to Crown), for the words “held of the Crown and of” substitute “ owned by the Crown or by ”.

(11) In section 28(1) (interpretation)—

- (a) the definition of “feu” shall cease to have effect;
- (b) in the definition of “incorporeal heritable right”, after the word “include” insert “ a right of ownership of land, the right of a lessee under a long lease of land, a right to mines or minerals or ”;
- (c) for the definition of “interest in land” substitute—

““interest in land”—

- (a) means any right in or over land, including any heritable security or servitude but excluding any lease which is not a long lease; and
- (b) where the context admits, includes the land;”.

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### Textual Amendments

**F10** Sch. 12 para. 39(3)(c)(6) and word preceding para. 39(3)(c) repealed (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 128(2), 129(5)(b)(c), sch. 15 (with ss. 119, 121)

#### *Ancient Monuments and Archaeological Areas Act 1979 (c.46)*

- 40 (1) The Ancient Monuments and Archaeological Areas Act 1979 shall be amended in accordance with this paragraph.
- (2) In section 12(9) (certain persons acquiring rights to monuments in Scotland not bound by guardianship deeds), in paragraph (b), for the words “completed by infefment” substitute “title has been completed”.
- (3) In section 18(4) (capacities relevant to limited ownership), in paragraph (c), the words “or heir of entail” shall cease to have effect.
- (4) In section 57(1) (power to require information), the words “of the *dominium utile*,” shall cease to have effect.

#### *Education (Scotland) Act 1980 (c.44)*

- 41 (1) The Education (Scotland) Act 1980 shall be amended in accordance with this paragraph.
- (2) In section 16(2)(b) (method of effecting transference of school), in sub-paragraph (i), for the words “interest in the land to be transferred” substitute “transferee’s right in the land”.
- (3) In each of sections 20(1)(a) (power of education authority to acquire land) and 22(1)(a) (power of education authority to sell land), the word “feu,” shall cease to have effect.

#### *Water (Scotland) Act 1980 (c.45)*

- 42 (1) The Water (Scotland) Act 1980 shall be amended in accordance with this paragraph.
- (2) In section 65 (power of council to make charging order for expenses of executing works), as saved by section 179 of the Local Government etc. (Scotland) Act 1994 (c.39)—
- (a) in subsection (5)—
- (i) the word “estates,”; and
- (ii) paragraph (a),
- shall cease to have effect;
- (b) in subsection (7), for the words “absolute order made under and in terms of the Improvement of Land Act 1864” substitute “a standard security”; and
- (c) in subsection (8), the words “or rentcharge” shall cease to have effect.
- (3) In Schedule 4 (provisions to be incorporated in orders relating to water undertakings), in paragraph 8, the words “feuduties, ground annuals,” shall cease to have effect.

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*British Telecommunications Act 1981 (c.38)*

- 43 In Schedule 2 to the British Telecommunications Act 1981 (provisions as to transfers of property, rights and liabilities), in paragraph 1(3), for the words from “Sub-paragraph (2)” to “that sub-paragraph” substitute “ In the application of sub-paragraph (2) ”.

*Mobile Homes Act 1983 (c.34)*

- 44 In section 5 of the Mobile Homes Act 1983 (interpretation), at the end add—  
“(4) In relation to land in Scotland, any reference in this Act to an “estate or interest” shall be construed as a reference to a right in, or to, the land.”.

*Roads (Scotland) Act 1984 (c.54)*

- 45 In each of sections 53(4) (enforceability against third parties of agreements as to use of land near roads) and 72(3) (enforceability against third parties of agreements as to stopping up of private access to land) of the Roads (Scotland) Act 1984, for the words “completed by infetment” substitute “ title has been completed ”.

*Companies Act 1985 (c.6)*

- 46 (1) The Companies Act 1985 shall be amended in accordance with this paragraph.
- (2) In—
- (a) section 396(1)(a)(ii) (charges requiring registration) unless the circumstance mentioned in sub-paragraph (4) below arises; or
  - (b) section 410(4)(a) (charges void unless registered) if that circumstance does arise,
- the words “, ground annual” shall cease to have effect.
- (3) If the amendment in head (b) above falls to be made, the amendment in head (a) above shall, on section 92 of the Companies Act 1989 coming into force, have effect.
- (4) The circumstance is that section 92 of the Companies Act 1989 has not come into force by the date on which this schedule comes into force.
- (5) In Schedule 4, in paragraph 93 (interpretation of Schedule), the words “is the proprietor of the *dominium utile* or, in the case of land not held on feudal tenure,” and “; and the reference to ground-rents, rates and other outgoings includes feu-duty and ground annual” shall cease to have effect.
- (6) In Schedule 9, in paragraph 86 (interpretation of Schedule), the words “is the proprietor of the *dominium utile* or, in the case of land not held on feudal tenure,” and “; and the reference to ground-rents, rates and other outgoings includes a reference to feu-duty and ground annual” shall cease to have effect.

*Housing Associations Act 1985 (c.69)*

- 47 In section 106(2) of the Housing Associations Act 1985 (application of Act in Scotland), in the definition of “heritable security”, for the words “interest in land by disposition or assignation of that interest” substitute “ land, or real right in land, by disposition of the land, or assignation of the real right, ”.

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*Housing (Scotland) Act 1987 (c.26)*

- 48 (1) The Housing (Scotland) Act 1987 shall be amended in accordance with this paragraph.
- (2) In section 16 (disposal of land for erection of churches etc.), for the word “feu” substitute “disposition”.
- (3) In section 84A (application of right to buy to cases where landlord is lessee), for the word “interest”, wherever it occurs, substitute “real right”.
- (4) In section 125(2) (notice to certain persons of time and place at which question of demolishing building will be considered), the words “of the superior of whom such owner holds, and” shall cease to have effect.
- (5) In section 132, subsection (1) (notice to superiors of certain proceedings in relation to lands and heritages) shall cease to have effect.
- (6) In section 155(1) (power to require information), for the words “an estate” substitute “a right”.
- (7) In section 175(1) (protection of superiors and owners)—
- (a) the words “superior or” shall cease to have effect; and
  - (b) for the word “estate” substitute “right”.
- (8) In section 177(b) (interpretation), for the words “an estate” substitute “a right”.
- (9) In section 179 (general effect of control order)—
- (a) in subsection (1)(b), for the words “an estate” substitute “a right”; and
  - (b) in subsection (2), for the words “under this section have an interest amounting to an estate in” substitute “own”.
- (10) In section 180 (effect of control order on occupier)—
- (a) in subsection (2)—
    - (i) in paragraph (a), for the words “an estate” substitute “a right”; and
    - (ii) in paragraph (b), for the words “an estate in” substitute “ownership of”; and
  - (b) in subsection (6), for the words “an estate” substitute “a right”.
- (11) In section 186 (appeal against control order), in each of subsections (1) and (2), for the words “an estate” substitute “a right”.
- (12) In section 190(1) (interpretation), in the definition of “licence”, for the words “an estate or interest therein” substitute “ownership, tenancy or a real right”.
- (13) Section 334 (power of heir of entail to sell land for housing purposes) shall cease to have effect.
- (14) In section 338(1) (interpretation)—
- (a) in the definition of “land”, for the word “estate” substitute “right”; and
  - (b) the definitions of—
    - (i) “sell” and “sale”; and
    - (ii) “superior”,shall cease to have effect.

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- (15) In Schedule 9 (recovery of expenses by charging order), in paragraph 7, for the words “bond and disposition in” substitute “ standard ”.
- (16) In Schedule 11 (houses in multiple occupation: control orders)—
- (a) in paragraph 4(1), for the words “an estate” substitute “ a right ”; and
  - (b) in paragraph 5(3), for the words—
    - (i) “an estate” substitute “ a right ”; and
    - (ii) “that estate” substitute “ that right ”.

*Consumer Protection Act 1987 (c.43)*

- 49 In section 23(3) of the Consumer Protection Act 1987 (interpretation), in paragraph (b) of the definition of “relevant interest”, for the words “*dominium utile*” substitute “ ownership ”.

*Income and Corporation Taxes Act 1988 (c.1)*

- 50 (1) The Income and Corporation Taxes Act 1988 shall be amended in accordance with this paragraph.
- (2) In section 15(1) (in which is set out Schedule A), in Schedule A, in paragraph 1(4) (b), the words “, ground annuals and feu duties” shall cease to have effect.
- (3) In section 119 (rent etc. payable in connection with mines, quarries and similar concerns), in subsection (3), in the definition of “rent”, the word “, feuduty” shall cease to have effect.
- (4) In section 776 (transactions in land: taxation of capital gains), in subsection (6), in the definition for Scotland of “freehold”, for the words “estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property,” substitute “ interest ”.
- (5) In section 832(1) (interpretation of the Tax Acts), after the definition of “distribution” insert—
- ““estate in land”, in relation to any land in Scotland, includes the land;”.

*Capital Allowances Act 1990 (c.1)*

- 51 In each of sections 51(3) and 125(1) of the Capital Allowances Act 1990 (interpretation), for paragraph (b) substitute—
- “(b) in Scotland, the interest of the owner or an agreement to acquire such an interest,”.

*Enterprise and New Towns (Scotland) Act 1990 (c.35)*

- 52 In section 32(2) of the Enterprise and New Towns (Scotland) Act 1990 (enforceability of registered agreements), for the words “completed by infetment” substitute “ title has been completed ”.



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*Natural Heritage (Scotland) Act 1991 (c.28)*

- 53 (1) The Natural Heritage (Scotland) Act 1991 shall be amended in accordance with this paragraph.
- (2) In section 22(1)(interpretation), in the definition of “land”, the word “estate,” shall cease to have effect.
- (3) In Schedule 1 (constitution and proceedings of Scottish Natural Heritage), in paragraph 19—
- (a) in sub-paragraph (1), after the words “to land” insert “ which or ”; and
  - (b) for sub-paragraph (2) substitute—
- “(2) In sub-paragraph (1) above—
- “interest” includes any right over the land, whether exercisable by virtue of ownership or by virtue of a licence or agreement and, without prejudice to that generality, includes sporting rights; and
- “land” includes—
- (i) land covered by water; and
  - (ii) salmon fishings.”.

*Coal Mining Subsidence Act 1991 (c.45)*

- 54 (1) The Coal Mining Subsidence Act 1991 shall be amended in accordance with this paragraph.
- (2) In section 52(1) (interpretation), in the definition of “owner”, paragraph (b) shall cease to have effect.
- (3) In Schedule 1 (determination of amount of depreciation payments), in paragraph 2(6) —
- (a) in the definition of “fee simple”, for the words “, in the case of feudal property, the estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property, the estate or” substitute “ the ”; and
  - (b) the definition of “incumbrance” shall cease to have effect.
- (4) In Schedule 2 (recipients of depreciation payments: special cases)—
- (a) in paragraph 3(2), head (b); and
  - (b) in paragraph 4(2)(b), the words “an entail or”, shall cease to have effect.
- (5) In Schedule 6 (farm loss payments), in paragraph 1(5)—
- (a) in head (a), for the words “an interest as infeft proprietor of” substitute “ a right as proprietor with completed title to ”; and
  - (b) the words “, but do not include references to an interest as a superior only” shall cease to have effect.

*Crofters (Scotland) Act 1993 (c.44)*

- 55 (1) The Crofters (Scotland) Act 1993 shall be amended in accordance with this paragraph.
- (2) In section 16 (provisions relating to conveyance)—

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- (a) in subsection (3), the words “estates or” shall cease to have effect;
  - (b) in subsection (5), for the words “is infeft in” substitute “ has a completed title to ”; and
  - (c) subsection (7) shall cease to have effect.
- (3) In section 17(3) (certain conditions or provisions to be unenforceable), paragraph (a), the words “or (b)” and in paragraph (b) the word “other”, shall cease to have effect.
- (4) In section 19(4) (heritable securities)—
- (a) paragraph (a); and
  - (b) in each of paragraphs (b) and (c), the words “otherwise than in feu”, shall cease to have effect.
- (5) In section 20(3) (interpretation), in paragraph (a), for the word “feuing” substitute “ disposing ”.

*Coal Industry Act 1994 (c.21)*

- 56 (1) The Coal Industry Act 1994 shall be amended in accordance with this paragraph.
- (2) In section 8 (exploitation rights: territorial waters and continental shelf), in subsection (6), for the words “a proprietor of the *dominium utile*” substitute “ an owner ”.
- (3) In section 9 (exploitation rights: oil and gas), in subsection (4)(b), for the words “proprietor of the *dominium utile* as respects” substitute “ an owner in ”.
- (4) In section 10 (protection for certain interests in coal and coal mines), in subsection (7), paragraph (b) and the word “and” immediately preceding that paragraph shall cease to have effect.

*Value Added Tax Act 1994 (c.23)*

- 57 In section 96(1) of the Value Added Tax Act 1994 (interpretation) in the definition of—
- (a) “fee simple”, in paragraph (a), the words “estate or interest of the proprietor of the *dominium utile* or, in the case of land not held on feudal tenure, the estate or” shall cease to have effect; and
  - (b) “major interest”, for the words from “-(a) the estate” to “tenure, the estate or” substitute “ the ”.

*Requirements of Writing (Scotland) Act 1995 (c.7)*

- 58 In section 1 of the Requirements of Writing (Scotland) Act 1995 (writing required for certain contracts, obligations, trusts, conveyances and wills)—
- (a) in subsection (2), in each of paragraphs (a)(i) and (b), for the words “an interest” substitute “ a real right ”; and
  - (b) in subsection (7), for the words “ “interest in land” means any estate, interest or” substitute “ “real right in land” means any real ”.

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*Atomic Energy Authority Act 1995 (c.37)*

- 59 In section 1 of the Atomic Energy Authority Act 1995 (schemes for transfer of property, rights and liabilities), for subsection (6) substitute—
- “(6) In the application of subsection (3)(b) above to Scotland, the reference to the fee simple estate shall be construed as a reference to the interest of the owner.”.

*Town and Country Planning (Scotland) Act 1997 (c.8)*

- 60 (1) The Town and Country Planning (Scotland) Act 1997 shall be amended in accordance with this paragraph.
- (2) In section 75(4) (restriction on enforceability of agreement regulating development or use of land), for the words “completed by infetment” substitute “title has been completed”.
- (3) In section 191 (disposal of land held for planning purposes), subsection (9) shall cease to have effect.
- (4) In section 272(2) (matters as to which information may be required), in paragraph (b), the word “superior,” shall cease to have effect.
- (5) In section 277 (interpretation)—
- (a) in subsection (1), in the definition of—
- (i) “disposal”, the words “, except in section 191(9),”; and
- (ii) “heritable security”, in paragraph (a), the words “a security by way of ground annual and”,
- shall cease to have effect; and
- (b) subsection (8) shall cease to have effect.
- (6) In Schedule 15 (general vesting declarations)—
- (a) in paragraph 7, the words “feuduty, ground annual or”; and
- (b) in paragraph 34, the words “a feuduty, ground annual,”,
- shall cease to have effect.

*Finance Act 1999 (c.16)*

- 61 (1) In Part III of Schedule 13 to the Finance Act 1999 (other instruments), in paragraph 18(1), head (c) shall cease to have effect.
- (2) Sub-paragraph (1) above and, in so far as relating to the Finance Act 1999, section 76 of, and schedule 13 to, this Act shall not affect any instrument executed before the appointed day.

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## PART 2

### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO THE NATIONAL TRUST FOR SCOTLAND

#### *National Trust for Scotland Order Confirmation Act 1935 (c.ii)*

- 62 (1) The Order contained in the Schedule to the National Trust for Scotland Order Confirmation Act 1935 (incorporation, conferring of powers etc.) shall be amended in accordance with this paragraph.
- (2) In section 4(2) (powers of National Trust), the word “feu” shall cease to have effect.
- (3) In section 6(2) (completion of title by National Trust), the words “notarial instrument or” shall cease to have effect.

#### *National Trust for Scotland Order Confirmation Act 1947 (c.xxxviii)*

- 63 (1) The Order contained in the Schedule to the National Trust for Scotland Order Confirmation Act 1947 (extension of powers of National Trust etc.) shall be amended in accordance with this paragraph.
- (2) In section 3(a) (extension of powers of National Trust: feuing of land for feu duties etc.)—
- (a) for the word “feus” substitute “dispositions”; and
- (b) the words from “feu duties” to “any” shall cease to have effect.
- (3) In section 4 (exercise of extended powers)—
- (a) in subsection (2)—
- (i) for the word “feu”, where it first occurs, substitute “dispose”; and
- (ii) for the words “feu charter feu contract” substitute “disposition”; and
- (b) in subsection (4), for the word “feued” substitute “disposed”.

**Status:**

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**Changes to legislation:**

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