

## SCHEDULE 12 MINOR AND CONSEQUENTIAL AMENDMENTS

### PART 1

#### MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

##### *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 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 “shall 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)—

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*Status: This is the original version (as it was originally enacted).*

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- (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) In section 32 (reservations, conditions and covenants affecting lands may be imported by reference)—
- (a) the word “, instrument,”, where it occurs for the first and third times; and
  - (b) the words “feu or otherwise”,
- shall cease to have effect.
- (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.
- (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 is *ex 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

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- 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 offences 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 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) In Schedule H (form of reference to a deed, instrument or writing for reservations, burdens and conditions affecting lands), the word “*instrument*”, where it last occurs, shall cease to have effect.
- (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.