
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULE 12 MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

Notes to Schedule K, shall cease to have effect.

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) in subsection (2)(h), the word “feuing,”; and
 - (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
 - (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 “uninfert or infert” shall cease to have effect.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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.

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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Sections 6 (actions of declarator of irritancy) and 8 (prohibition of subinfeudation annulled) shall cease to have effect.
- (3) For section 9 there shall be substituted—

“9 Limitation of effect of conditions as to pre-emption

- (1) Any right of pre-emption of land, being a right created in a deed or other writing executed after 1st September 1974 or in a grant in feu of any date, in favour of any person, in the event of a sale of, or of any part of, the land by the proprietor for the time being (whether or not the right purports to be exercisable on more than one occasion) shall, with all irritant clauses applicable to the right, be null and void and not capable of being enforced as regards the land or part unless within—
- (a) twenty-one days after an offer has been made by the proprietor to the person in whom the right is vested; or
 - (b) such shorter period after an offer has been so made as may be specified in the writing stipulating for the right,
- the person accepts the offer.
- (2) Subsection (1) above is without prejudice to section 17 (extinction of superior’s rights) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).
- (3) Any such offer may be made by delivering it to the person (or to the agent or factor of the person) or by sending it by registered letter to the person (or to such agent or factor) at his usual or last known address or, if the person is unknown or cannot be found, to the Extractor of the Court of Session.
- (4) Either—
- (a) an acknowledgment endorsed on the offer, or on a copy of the offer, by the person (or by his agent or factor); or
 - (b) where the offer is sent by registered letter, a certificate subscribed by the proprietor (or the proprietor’s solicitor) that the offer was duly posted, with the Post Office receipt for the registered letter attached, shall be sufficient evidence that the offer was duly made on the date stated in the acknowledgment or, as the case may be, on the date of the Post Office receipt.”.

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—

“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”—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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—
- “(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;”.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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
 - (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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.
- (5) In section 38(5) (recording of public path creation agreement), in the proviso, for the words “completed by infeftment” 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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

(b) in subsection (9), for the words “completed by infertment” 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 infertment” 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) In section 1 (variation and discharge of land obligations)—

(a) in subsection (2)—

(i) after the word “is”, where it first occurs, insert “— (a)”;

(ii) for the words “an interest in land” substitute “land or of a real right in land”;

(iii) for the words “another interest in that land, or of an interest in other land” substitute “that or other land, or of a real right in that or other land”; and

(iv) at the end of the first paragraph insert—

“(b) a conservation burden; or

(c) a maritime burden.”;

(b) in each of subsections (3) and (4), for the words “interest in land” substitute “land or real right in land”;

(c) after subsection (6) add—

“(7) In subsection (2) above “conservation burden” and “maritime burden” have the meanings given respectively by sections 27(1) and 60(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).”.

(3) In section 2 (provisions supplementary to section 1), in subsection (6)—

(a) in the definition of “benefited proprietor” and of “burdened proprietor”—

(i) after the words “land obligation” insert “such as is mentioned in—
(a) subsection (2)(a) of that section”;

(ii) for the words “an interest”, in each of the four places where they occur, substitute “land or of a real right”;

(iii) after “enforce the obligation;” insert—

“(b) subsection (2)(b) of that section, means the conservation body (within the meaning of Part 4 of the Abolition of Feudal Tenure etc. (Scotland) Act

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- 2000 (asp 5)) having the right to the conservation burden; and
- (c) subsection (2)(c) of that section, means the Crown.”; and
- (iv) for the words “that interest” substitute “that land or real right”;
- (b) the definition of “interest in land” shall cease to have effect; and
- (c) after the definition of “land obligation” insert the following definitions—
- ““proprietor”, in any reference to the proprietor “of a real right in land”, means the holder of such right; and
- “real right in land” means any such right, other than ownership, which is capable of being held separately and to which a title may be recorded in the Register of Sasines.”,
- and subsection (7) shall cease to have effect.
- (4) Sections 3 to 6 (allocation of feuduties and ground annuals) shall cease to have effect.
- (5) In section 7 (provisions for contracting out of sections 1 to 6 to be void) for the words “1 to 6” substitute “1 and 2”.
- (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) in paragraph (b), for the definition of “interest in land” substitute—
- ““real right in land” has the same meaning as it has for the purposes of sections 1 and 2 of this Act;”;
- (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”.
- (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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (ii) for the words “last infeft” 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 infeft in” substitute “having the last recorded title to”; and
 - (b) in subsection (3), for the words—
 - (i) “last infeft in” substitute “having the last recorded title to”; and
 - (ii) “last infeft 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 “infefit” shall cease to have effect.
- (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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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) In Schedule 1 (land obligations not subject to variation or discharge under section 1 of Act), in paragraph 1, the words “feuduty, ground annual,” and “skat, dry multure, teind, stipend, standard charge” shall cease to have effect.
- (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 infeft in” substitute “has a recorded title to”;
 - (ii) for the words “has not previously been infeft 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 infeft 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.

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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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),
- 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 invalid *ex 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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 invalid *ex 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).”.

(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.”.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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;”;
- (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.
- (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)—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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; and
 - (c) in subsection (6)—
 - (i) for the words “an uninfert proprietor” substitute “an unregistered holder”;
 - (ii) for the words “the uninfert proprietor” substitute “him”;
 - (iii) for the word “infert” substitute “registered as entitled to the interest”;
 - (iv) the words “by person uninfert” shall cease to have effect; and
 - (v) after “uninfert” insert “and section 30(b) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) (completion of title to conservation burden)”.
- (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”, shall cease to have effect.
- (6) In section 15 (simplification of deeds relating to registered interests)—
- (a) in subsection (2)(a), the words “sections 10 and 146 of and Schedule D to the Titles to Land Consolidation (Scotland) Act 1868,” shall cease to have effect; and
 - (b) for subsection (3) substitute—
 - “(3) It shall not be necessary, in any deed relating to a registered interest in land, to deduce title if evidence of sufficient midcouples or links between the unregistered holder and the person last registered as entitled to the interest are produced to the Keeper on registration in respect of that interest in land.”.
- (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”,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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;”.

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 infertment” 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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

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”.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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,”.

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)—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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.
- (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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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”.

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.”.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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)—
- (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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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”.

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 infeftment” 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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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.