

Status: This is the original version (as it was originally enacted).

SCHEDULE 2

(introduced by section 52(3))

AMENDMENT OF REGISTRATION OF LEASES (SCOTLAND) ACT 1857

- 1 The Registration of Leases (Scotland) Act 1857 (c.26) is amended as follows.
- 2 In section 1 (long leases, and assignments thereof, registrable in Register of Sasines) —
- (a) before first “record” insert “register in the Land Register of Scotland or as the case may be”,
 - (b) for second “record” to “thereof” substitute “register or record assignments and translations of such leases”,
 - (c) the existing provisions as so amended become subsection (1),
 - (d) after that subsection insert—

“(2) In subsection (1) above, the expression “lands and heritages in Scotland” is, without prejudice to its generality, to be construed as including the seabed of the territorial sea of the United Kingdom adjacent to Scotland.”.
- 3 In the title of section 1 as so amended, for “registerable” substitute “registrable in Land Register of Scotland or Register of Sasines”.
- 4 In section 2 (recorded leases effectual against singular successors in the lands let)—
- (a) after “duly” insert “registered or”,
 - (b) in the proviso, after first “of” insert “, and subject to section 20C of”.
- 5 In the title of section 2 as so amended, for “Recorded” substitute “Registered and recorded”.
- 6 In section 3 (assignments of recorded leases)—
- (a) in subsection (1)—
 - (i) after first “been” insert “registered or”,
 - (ii) before second “recorded” insert “registered or”,
 - (iii) after “Schedule” insert “(ZA.) or, as the case may be”,
 - (iv) before “recording” insert “registering or”,
 - (b) in subsection (2)—
 - (i) repeal “recording of such assignment or the”,
 - (ii) after first “interest” insert “or the registration of such assignment under the Land Registration etc. (Scotland) Act 2012 (asp 5) or the recording of such assignment”,
 - (iii) for “and it” to the end substitute “and, as the case may be, the grantee’s interest or the lease had been so registered or the lease had been duly recorded.”,
 - (c) in subsection (2C), repeal—
 - (i) “, notwithstanding section 3(4) of the Land Registration (Scotland) Act 1979 (c.33) (creation of real right or obligation on date of registration etc.)”,
 - (ii) “of an interest in land under”.
- 7 In the title of section 3 as so amended, before “recorded” insert “registered or”.
- 8 In section 10 (adjudgers to complete right by recording abbreviate)—

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- (a) after first “lease” insert “registered or recorded”,
 - (b) before “recording” insert “registering or”,
 - (c) before second “recorded” insert “registered or”.
- 9 In section 12 (preferences regulated by date of recording transfer)—
- (a) after first “assignments” insert “of any such lease registered or recorded as aforesaid”,
 - (b) before second “recorded” insert “registered or”,
 - (c) before “recording” insert “registering or”.
- 10 In the title of section 12 as so amended, before “recording” insert “registering or”.
- 11 In section 13 (renunciations and discharges to be recorded)—
- (a) after first “aforesaid” insert “registered or”,
 - (b) for “(G.)” substitute “(ZG.) (or (G.))”,
 - (c) after “duly” insert “register or”.
- 12 In the title of section 13 as so amended, before “recorded” insert “registered or”.
- 13 In section 14 (entry of decree of reduction)—
- (a) after “renunciation” insert “registered or as the case may be”,
 - (b) after “duly” insert “register or”.
- 14 In section 15 (mode of registering etc.)—
- (a) the existing provisions become subsection (1),
 - (b) after that subsection insert—
 - “(2) References in subsection (1) above to registration are not to be construed as including references to registration in the Land Register of Scotland.”.
- 15 In section 16 (registration equivalent to possession), after subsection (2) insert—
- “(3) References in subsections (1) and (2) above to registration are not to be construed as including references to registration in the Land Register of Scotland.”.
- 16 After section 20B (as inserted by section 52) insert—

“20C Disapplication of Leases Act 1449

The Leases Act 1449 (c.6) does not apply to a lease registrable under this Act and granted on or after the date on which—

- (a) the land to which the lease relates, or any part of that land, became land within an operational area (that is to say within an area in respect of which the provisions of the Land Registration (Scotland) Act 1979 (c.33) had come into operation), or
- (b) section 52 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (amendment of Registration of Leases (Scotland) Act 1857 (c.26)) comes into force.

20D Long fishing leases

This Act applies to a contract within the meaning of section 66 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp

15) (application of Leases Act 1449) as it does to a lease described in section 1 of this Act provided that the contract in question—

- (a) is for a period exceeding 20 years, or
- (b) includes an obligation such as is described in section 17 of this Act.

20E The expression “the register”

Except where the context otherwise requires, in this Act—

- (a) the expression “the register” is to be construed as including a reference to the Land Register of Scotland, and
- (b) analogous expressions are to be construed accordingly.”.

17 Before schedule (A.) insert—

“SCHEDULE (Z.A.)
FORM OF ASSIGNATION OF LEASE REGISTERED
IN THE LAND REGISTER OF SCOTLAND

I, *A.B.*, [*designation*] in consideration of the sum now paid to me, [*or otherwise, as the case may be,*] assign to *C.D.* [*designation*] a lease registered in the Land Register of Scotland under title number [*number*] [but (*where the lease is assigned in part only*) in so far only as regards the following portion of the subjects leased; viz. (*specify particularly the portion*),] with entry as at (*term of entry*). And [*where sub-lease*] I assign the rents from [*term*]; and I grant warrandice; and I bind myself to free and relieve the said *C.D.* of all rents and burdens due to the landlord or others at and prior to the term of entry in respect of said lease; and I consent to registration for preservation and execution.

[*Testing clause. †*]

†Note.—In the case of a traditional document, subscription of it by the granter will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes: see the Requirements of Writing (Scotland) Act 1995 (c.7) (which also makes provision as regards the authentication of an electronic document).

18 In each of schedules (A.) (form of assignation of lease), (G.) (renunciation of lease) and (H.) (form of discharge of bond and assignation in security), in the note relating to subscription of the document in question—

- (a) for “Subscription of the document by the granter of it” substitute “In the case of a traditional document, subscription of it by the granter”,
- (b) after “1995” insert “, which also makes provision as regards the authentication of an electronic document”.

19 In the title of schedule (A.), at the end insert “recorded in Register of Sasines”.

20 Schedule (B.) (form of bond and assignation in security) and the note to that schedule are repealed.

- 21 Schedule (D.) (form of translation of assignation in security) and the note to that schedule are repealed.
- 22 Before schedule (G.) insert—

“SCHEDULE (ZG.)
RENUNCIATION OF LEASE REGISTERED
IN THE LAND REGISTER OF SCOTLAND

I, *A.B.* [*designation*] renounce as from the term of [*term*] in favour of *C.D.* [*or as the case may be*] a lease granted by the said *C.D.* [*or as the case may be*] and registered in the Land Register of Scotland under title number [*number*].

[*Testing clause.* †]

†Note.—In the case of a traditional document, subscription of it by the granter will be sufficient for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes: see the Requirements of Writing (Scotland) Act 1995 (c.7) (which also makes provision as regards the authentication of an electronic document).

- 23 In the title of schedule (G.), at the end insert “recorded in the Register of Sasines”.