



# Conveyancing and Feudal Reform (Scotland) Act 1970

## 1970 CHAPTER 35

### PART II

#### THE STANDARD SECURITY

#### 9 The standard security.

- (1) The provisions of this Part of this Act shall have effect for the purpose of enabling a new form of heritable security to be created to be known as a standard security.
- (2) It shall be competent to [<sup>F1</sup>grant and register in the Land Register of Scotland or to] grant and record in the Register of Sasines a standard security over any [<sup>F2</sup>land or real right in land,] to be expressed in conformity with one of the forms prescribed in Schedule 2 to this Act.
- [<sup>F3</sup>(2B) It shall not be competent to grant a standard security over a personal pre-emption burden or personal redemption burden (both within the meaning of Part 4 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) [<sup>F4</sup>or as the case may be of section 23 of the Long Leases (Scotland) Act 2012 (asp 9)].]
- (3) A grant of any right over [<sup>F2</sup>land or a real right] in land for the purpose of securing any debt by way of a heritable security shall only be capable of being effected at law if it is embodied in a standard security.
- (4) Where for the purpose last-mentioned any deed which is not in the form of a standard security contains a disposition or assignation [<sup>F2</sup>of land or of a real right] in land, it shall to that extent be void and unenforceable, and where that deed has been duly [<sup>F5</sup>registered or] recorded the creditor in the purported security may be required, by any person having an interest, to grant any deed which may be appropriate to clear [<sup>F6</sup>the Land Register of Scotland or] the Register of Sasines of that security.
- (5) A standard security may be used for any other purpose for which a heritable security may be used if any of the said forms is appropriate to that purpose, and for the purpose

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of any enactment affecting heritable securities a standard security, if so used, or if used as is required by this Act instead of a heritable security as defined therein, shall be a heritable security for the purposes of that enactment.

- (6) The <sup>M1</sup>Bankruptcy Act 1696, in so far as it renders a heritable security of no effect in relation to a debt contracted after the recording of that security, and any rule of law which requires that a real burden for money may only be created in respect of a sum specified in the deed of creation, shall not apply in relation to a standard security.

<sup>F7</sup>(7) .....

- (8) For the purposes of this Part of this Act—

- (a) “heritable security (except in subsection (5) of this section if the context otherwise requires) means any security capable of being constituted over any [<sup>F2</sup>land or real right] in land by disposition or assignation of that [<sup>F2</sup>land or real right] in security of any debt and of being [<sup>F8</sup>registered in the Land Register of Scotland or] recorded in the Register of Sasines;
- (b) [<sup>F9</sup>“real right in land” means any such right, other than ownership or a real burden, which is capable of being held separately and to which a title may be [<sup>F10</sup>registered in the Land Register of Scotland or] recorded in the Register of Sasines;]
- (c) “debt” means any obligation due, or which will or may become due, to repay or pay money, including any such obligation arising from a transaction or part of a transaction in the course of any trade, business or profession, and any obligation to pay an annuity *orad factum praestandum*, but does not include an obligation to pay any [<sup>F11</sup>feuduty, ground annual,] rent or other periodical sum payable in respect of land, and “creditor” and “debtor”, in relation to a standard security, shall be construed accordingly.

#### Textual Amendments

- F1** Words in s. 9(2) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 17(2)(a)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F2** Words in s. 9(2)-(4)(8)(a) substituted (28.11.2004) by [2000 asp 5](#), ss. 76(1), 77(2)(c) {sch. 12 Pt. 1 para. 30(6)(a)-(d)(i)} (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**
- F3** S. 9(2B) inserted "after subsection (2A)" (28.11.2004) by virtue of [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 128(1), 129(2), **sch. 14 para. 4(2)(a)** (with ss. 119, 121); S.S.I. 2003/456, **art. 2**
- F4** Words in s. 9(2B) inserted (21.2.2014) by [Long Leases \(Scotland\) Act 2012 \(asp 9\)](#), s. 83(2)(3), **sch. para. 1**; S.S.I. 2013/322, art. 3(i)
- F5** Words in s. 9(4) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 17(2)(b)(i)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F6** Words in s. 9(4) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 17(2)(b)(ii)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F7** S. 9(7) repealed by [Tenants' Rights, Etc. \(Scotland\) Act 1980 \(c. 52, SIF 61\)](#), **Sch. 5**
- F8** Words in s. 9(8)(a) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 17(2)(c)(i)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F9** S. 9(8)(b): definition of "real right in land" substituted (28.11.2004) by virtue of [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 128(1), 129(2), **sch. 14 para. 4(2)(b)** (with ss. 119, 121); S.S.I. 2003/456, **art. 2**
- F10** Words in s. 9(8)(b) inserted (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 17(2)(c)(ii)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

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**F11** Words in s. 9(8)(c) repealed (28.11.2004) by 2000 asp 5, ss. 76(1)(2), 77(2)(c)(d), sch. 12 Pt. 1 para. 30(6)(d)(iii), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**

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**Marginal Citations**

**M1** Act of the Parliament of Scotland 1696, cap. 5.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 9(8)(b) words substituted by [2000 asp 5 Sch. 12 para. 30\(6\)\(d\)\(ii\)](#) (This amendment has not been applied to legislation.gov.uk. Sch. 12 para. 30(6)(d)(ii) repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121))

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

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

- s. 1(2)(b)(c) inserted by [2000 asp 5 Sch. 12 para. 30\(2\)\(a\)\(iv\)](#) (This amendment has not been applied to legislation.gov.uk. Sch. 12 para. 30(2) repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121))
- s. 1(7) added by [2000 asp 5 Sch. 12 para. 30\(2\)\(c\)](#) (This amendment has not been applied to legislation.gov.uk. Sch. 12 para. 30(2) repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121))
- s. 9(2A) inserted by [2000 asp 5 s. 32](#) (This amendment has not been applied to legislation.gov.uk. S. 32 repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121) and word "32" in s. 77(2)(a) omitted (22.10.2003) by virtue of S.S.I. 2003/503, art. 5)
- s. 13A amendment to earlier affecting provision 2007 asp 3 s. 85 by [2012 asp 5 sch. 5 para. 52\(2\)](#)
- s. 24(1E) inserted by [2014 asp 18 sch. 5 para. 22](#)