



# Conveyancing (Scotland) Act 1924

## 1924 CHAPTER 27

An Act to amend the Law of Conveyancing in Scotland.

[1st August 1924.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### **1 Short title, extent and commencement of Act**

- (1) This Act may be cited as the Conveyancing (Scotland) Act, 1924.
- (2) This Act shall, except where otherwise provided, come into operation on the first day of January, nineteen hundred and twenty-five.
- (3) This Act shall apply to Scotland only.

### **2 Interpretation clause**

The words and expressions after mentioned or referred to shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)

- (1) The words and expressions used in this Act and in the schedules annexed to this Act which are interpreted in the Titles to Land Consolidation (Scotland) Act, 1868, and the Conveyancing (Scotland) Act, 1874, shall have the meaning assigned thereto respectively by these Acts, subject to the following qualifications :—
  - (a) " Land " or " lands " shall not include " securities ";
  - (b) " Heritable securities " and " securities " shall include real burdens and securities by way of ground annual, which either appear in the appropriate Register of Sasines as a burden on the land out of which they are payable or are contained in a deed the recording of which in such Register on behalf of the original creditor would infest him therein and in the land out of which the same are payable, or either of them, and securities over a lease, but shall not include securities constituted by *ex facie* absolute disposition; and

- (c) "Conveyance" and "deed" and "instrument" shall include all deeds, notices of title, decrees, petitions and writings specified in this Act; and these words and the words "writing," "writ" and "decree" occurring in the said Acts and in this Act shall each mean and include an extract or office copy of such "conveyance," "deed," "instrument," "writing," "writ" or "decree" :
- (2) "Extract" and "office copy" shall each mean and include a duly authenticated extract of any act, decree or warrant of the Lords of Council and Session, or any inferior court, or a duly authenticated extract or office copy from the Register of the Great Seal, or from the Books of Council and Session, or of any sheriff court, or of any other public authentic register of probative writs, or from the appropriate Register of Sasines, of any conveyance, deed, instrument, writing, writ or decree, and shall also mean and include a probate of the will or testamentary settlement of a person deceased issued by any court of probate in England or Northern Ireland, or in any part of His Majesty's Dominions, or an exemplification of such probate :
- (3) "Deduction of title" shall mean the specification in a deed, decree or instrument of the writ or series of writs (without narration of the contents thereof) by which the person granting such deed or in whose favour such decree is conceived or by whom such instrument is expedite, has acquired right from the person from whom such title is deduced, and such specification shall be a compliance with an instruction to "deduce" a title in terms of this Act:
- (4) "Adjudication" shall include adjudication whether for debt or in implement, and constitution and adjudication whether for debt or in implement, and declarator and adjudication :
- (5) "Lease" shall mean a lease which has been registered or is registrable in the Register of Sasines in virtue of the Registration of Leases (Scotland) Act, 1857, and Acts amending the same:
- (6) "Law agent" shall mean and include writers to the signet, solicitors in the supreme courts, procurators in any sheriff court, and every person entitled to practise as an agent in a court of law in Scotland :
- (7) "Agent" in the Schedules hereto shall mean law agent or notary public :
- (8) "Register of Sasines" shall mean and include the General Register of Sasines, the Particular Registers of Sasines now discontinued, the Register of Sasines kept for any royal or other burgh and the Register of Booking in the burgh of Paisley.

### **3 Disposition and c. by person uninfert**

If a disposition of land, or an assignation, discharge or deed of restriction of a heritable security duly recorded in the appropriate Register of Sasines, or of any part of such security, is granted by a person having a right to such land, or to such heritable security, or such part thereof, but whose title to such land or heritable security or part thereof has not been completed by being so recorded, and who in such disposition or other deed deduces his title from the person last infert or having the last recorded title, in or as nearly as may be in the terms of Form No. 1 of Schedule A to this Act in the case of land, or in or as nearly as may be in manner prescribed in Note 2 to Schedule K to this Act in the case of a heritable security, then on such disposition or other deed being recorded in the appropriate Register of Sasines, the title of the grantee thereof shall be in all respects in the same position as if his title were completed as at the date of such recording by notarial instrument duly expedite and recorded according to the present

law and practice; and the provisions of section one hundred and forty-six of the-Titles to Land Consolidation (Scotland) Act, 1868, shall apply to such disposition.

#### **4 Completion of title**

Any person having right either to land or to a heritable security by a title which has not been completed by being recorded in the appropriate Register of Sasines, -may complete his title in manner following :—

- (1) A person having such right to land may complete a title thereto by recording in the appropriate Register of Sasines a notice of title in or as nearly as may be in the terms of Form No. 1 of Schedule B to this Act, in which notice of title such person shall deduce his title from the person last infeft :
- (2) When the writ forming the immediate connection with the person last infeft is an unrecorded conveyance, deed or decree, the recording of which in the appropriate Register of Sasines on behalf of the person in whose favour the same is. conceived would have completed his title by infeftment, the person having such right to the land therein contained or part thereof may complete a title thereto by recording in the appropriate Register of Sasines such conveyance, deed or decree, docquetted in manner prescribed in Note 7 to Schedule B to this Act, along with a notice of title in or as nearly as may be in the terms of Form No. 2 of that Schedule, in which notice of title such person shall deduce his title from the person in whose favour such conveyance, deed or decree is conceived :
- (3) A person having such right to a heritable security, or part thereof, which appears in the appropriate Register of Sasines as a burden on land, may complete a title thereto by recording in the appropriate Register of Sasines a notice of title in or as nearly as may be in the terms of Form No. 3 of Schedule B to this Act, or in the case of a ground-annual in or as nearly as may be in the terms of Form No. 4 of that Schedule, in which notice of title such person shall deduce his title from the person last infeft in such heritable security or holding the last recorded title thereto :
- (4) A person having such right to an unrecorded, heritable security or part thereof contained in a deed the recording of which in the appropriate Register of Sasines on behalf of the original creditor would have infeft him therein and in the land out of which it is payable, or either of them, but which has not been so recorded, may complete a title thereto by recording in the appropriate Register of Sasines such heritable security, which shall be docquetted in manner prescribed in Note 7 to Schedule B to this Act, along with a notice of title in or as nearly as may be in the terms of Form No.5 of that Schedule, 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, in which notice of title such person shall deduce his title from the original creditor in such heritable security.

And on such notice of title being recorded as in this section provided, the title of the person on whose behoof it is recorded shall be in all respects in the same position as if his title were completed as at the date of such recording by notarial instrument in the appropriate form duly expedite and recorded according to the present law and practice.

#### **5 Deduction of title**

- (1) In a deduction of title in terms of this Act it shall be competent to specify as a title or as a midcouple or link of title, any statute, conveyance, deed, instrument, decree or other writing whereby a right to land or to any estate or interest in or security over land is

vested in or transmitted to any person, or in virtue of which a notarial instrument could be expedite, or which could be used as a midcouple or link of title in expediting such instrument, or any minute of a meeting at which any person is appointed to any place or office, if such appointment involves a right to land or to an estate or interest in or security over land; and any copy of or excerpt from such minute of meeting certified as correct by the chairman of such meeting or other person duly authorised to sign such minute or to give extracts therefrom, or by any law agent or notary public shall be prima, facie evidence of the terms of such minute of meeting.

- (2) (a) When the holder of a heritable security from which executors are not excluded has died, whether infest or uninfest, or with or without a recorded title, and whether testate or intestate, any confirmation in favour of an executor of such deceased which includes such security shall of itself be a valid title to the debt thereby secured and shall also be a warrant for such executor dealing with such debt and also with such security in terms of the third and seventh sections of this Act, and also for completing a title to such security in terms of the fourth section of this Act.
- (b) For the purposes of this subsection, " confirmation " shall include any probate or letters of administration or other grant of representation to movable or personal estate of a deceased person issued by any court in England or Northern Ireland or any part of His Majesty's dominions which has been or shall have been produced in the Commissary Court of the County of Edinburgh and certified by the commissary Clerk of that court under and in terms of the Confirmation and Probate Act, 1858, or sealed with the seal of office of the Court under and in terms of the Colonial Probates Act, 1892, or so certified or sealed under and in terms of any future statutory provisions to that effect, and the confirmation thereby implied shall operate in favour of the person or the persons or the survivors or survivor of them to whom such probate, letters of administration or other grant of representation were granted; and " executor " shall include such person or persons; and such implied confirmation shall be deemed to include all heritable securities which belonged to the deceased and from which executors are not excluded.
- (3) (a) It shall be competent in any warrant, interlocutor or decree of court conferring a right to land or to a heritable security, or granting authority to complete a title thereto, and also in the application upon which such warrant, interlocutor or decree proceeds, to insert a deduction of title from the person last infest or holding the last recorded title, and an extract of such warrant, interlocutor or decree shall be equivalent to a disposition of land or an assignation of a heritable security granted in terms of section three of this Act and on being recorded in the appropriate Register of Sasines shall have the same force and effect as such a disposition or assignation duly recorded in such register.
- (b) Section twenty-four of the Titles to Land Consolidation (Scotland) Act, 1868, and section forty-four of the Conveyancing (Scotland) Act, 1874, are hereby amended in accordance with the provisions of this subsection, and the procedure prescribed in section forty-four of the said Act of 1874, as hereby amended, shall be competent irrespective of whether the trust title has or has not been duly completed and recorded, and shall be applicable to all judicial factors within the meaning of section three of the said Act of 1868, and both of such sections hereby amended shall apply to heritable securities, and such heritable security may be referred to in any warrant, interlocutor or decree, or in any application upon which the same proceeds, in the manner prescribed in the forms relative thereto referred to in section four of this Act.

## **6 Notice of title equivalent to notarial instrument**

- (1) A notice of title expedite in terms of this Act shall be equivalent to a notarial instrument expedite according to the present law and practice, and the provisions of section one hundred and forty-six of the Titles to Land Consolidation (Scotland) Act, 1868, shall apply to such notice of title.
- (2) The stamp duty chargeable on any such notice of title shall be the same as that chargeable in respect of any notarial instrument to be expedite and recorded in any Register or Sasines.

## **7 Assignment of unrecorded disposition or bond and disposition in security**

- (1) When a disposition of land or a bond and disposition in security has not been recorded in the appropriate Register of Sasines, or otherwise followed by infestment, the grantee of such deed, or any person in right thereof, may assign the same by an assignment in or as nearly as may be in the terms of Form No. 1 of Schedule C to this Act in the case of a disposition of land, or of Form No. 2 of that Schedule in the case of a bond and disposition in security, and such assignment, or the first of a series of such assignments, shall be endorsed in whole or in part on some part of the deed assigned, and each subsequent assignment shall be endorsed in whole or in part on the same sheet as that on which the immediately preceding assignment ends: Provided that in any such assignment it shall not be necessary to deduce the title of the granter of the same if he is the grantee of the deed assigned, or of the immediately preceding assignment, but if he is not the grantee thereof, he shall deduce his title from such grantee; and provided further that nothing in this subsection contained shall authorise any partial assignment in such form of a disposition or bond and disposition in security.
- (2) The grantee of such disposition or bond and " disposition in security, or the person in right thereof, may assign the same by a separate assignment in or as nearly as may be in the terms of the appropriate Form of the said Schedule C as modified by Note 2 to that Schedule, and if the granter of such assignment is not the grantee of the deed assigned, or of the assignment, or the last in date of a series of assignments, endorsed thereon in terms of subsection (1) of this section, he shall deduce his title from such grantee, and such disposition or bond and disposition in security, and any separate assignment or assignments thereof other than the separate assignment last in date, shall be docketed as provided for in the said Note 2 before being recorded along with such last-mentioned assignment in the appropriate Register of Sasines.
- (3) An assignment granted in terms of this section shall, unless otherwise expressed, imply a destination in favour of the heirs or assignees of the grantee thereof if it relates to a disposition and a destination in favour of the executors or assignees of the grantee thereof if it relates to a bond and disposition in security.
- (4) On such disposition or bond and disposition in security, together with such assignment or assignments thereof, being recorded in the appropriate Register of Sasines, the grantee of such assignment, or, in the event of there being more than one such assignment, the grantee of the assignment last in date, shall be in all respects in the same position as if his title were completed as at the date of such recording by notarial instrument in the appropriate form duly expedite and recorded according to the present law and practice.
- (5) An unrecorded disposition or an unrecorded bond and disposition in security with an assignment or series of assignments endorsed thereon in terms of this section shall, for the purposes of paragraphs (2) and (4) of section four of this Act, be equivalent

to an unrecorded disposition or unrecorded bond and disposition in security granted in favour of the grantee of such assignation, or, in the event of there being more than one such assignation, the grantee of the assignation last in date, from whom the person expeding a notice of title in terms of paragraphs (2) and (4) of the said section four shall deduce his title, and in such notice of title such disposition or bond and - disposition in security, and the assignation or assignations endorsed thereon, shall be referred to in the manner indicated in Note 5 to Schedule B to this Act.

## **8 Description by reference and short reference to deed bearing more than one date**

- (1) It shall be no objection to a description by reference to a particular description of land in accordance with section sixty-one of the Conveyancing (Scotland) Act, 1874, that the description referred to contains a description by reference of a larger piece of land of which the land particularly described forms part, and Schedule 0 annexed to the said Act of 1874 is hereby repealed and Schedule D to this Act is substituted therefor: The provisions of this section shall be retrospective.
- (2) From and after the commencement of this Act, where land in Scotland is held under and by virtue of a deed of entail registered in the Register of Sasines in which such land has been particularly described, it shall not be necessary in any proceedings for disentail of the whole or any part of such land, or in any instrument of disentail to be executed under the authority of the Court of Session, or in any instrument of disentail to which the authority of the Court of Session falls to be interponed in the course of such proceedings, to repeat the particular description of the land at length, but it shall be sufficient that such land shall be described by reference in the manner provided for by section sixty-one of the Conveyancing (Scotland) Act, 1874.
- (3) In specifying any writ recorded in any Register of Sasines, it shall be competent for the better identification of such writ, to state the number of the volume 'o.' book of the register in which, and of the folio on which, the same has been recorded; but it shall be no objection to the specification of any writ that such volume or book and folio or either of them are not stated or are misstated, provided that such specification is sufficient for the identification of such writ.
- (4) Where any deed, instrument, or writing bearing more than one date is specified or referred to in any other deed, instrument, or writing, it shall be no objection to such specification or reference that only the first date is given with the addition of the words " and subsequent date " (or " dates ").

## **9 Amendment of law as to reference to conditions of title**

- (1) Notwithstanding any conditions or clauses-affecting land, whether prohibitory, irritant, resolute or otherwise, expressed in any deed, instrument, or writing relating to such land, whether dated before or after the commencement of this Act, it shall not be necessary in any deed, instrument, or writing by which any heritable security over such land is constituted, transmitted, or otherwise dealt with, to repeat or to refer to any such conditions or clauses : Provided that this subsection shall not apply to any disposition or other conveyance granted in virtue of any power of sale contained in a heritable security (including any disposition granted by a creditor to himself pursuant to section eight of the Heritable Securities (Scotland) Act, 1894), nor to any decree by which a security right is or may be converted into a right of property, and where in any heritable security, whether dated before or after the commencement of this Act, such conditions or clauses have not been repeated or referred to, any decree pronounced

in connection with such security pursuant to the Heritable Securities (Scotland) Act, 1894, and Schedule D to that Act, shall repeat or refer to such conditions or clauses, and the said Schedule D is hereby amended accordingly.

- (2) It shall be no objection to any deed, instrument, or writing by which a heritable security was constituted, transmitted, or otherwise affected, although dated before the commencement of this Act, that the same neither contained nor referred to conditions or clauses affecting the security subjects, repetition of or reference to which was required by any deed or otherwise in accordance with the law as existing prior to the commencement of this Act.
- (3) When any conditions or clauses affecting land have been duly referred to in the title thereto of the proprietor for the time duly recorded in the appropriate Register of Sasines, whether before or after the commencement of this Act, it shall not be competent to object to such title on the ground that in any prior deed, instrument, or writing applicable to such land such conditions or clauses were neither repeated nor referred to.
- (4) In any case in which there has been or shall be an omission or failure in any deed, instrument, or writing applicable to land, and forming the title of the proprietor for the time, to repeat or refer to conditions or clauses affecting such land, it shall be competent for such proprietor to grant and to record in the appropriate Register of Sasines a deed of acknowledgment setting forth the omission or failure, and repeating or referring to the conditions or clauses, and thenceforth the deed, instrument, or writing as to which such omission or failure occurred shall be deemed to have duly contained or referred to such conditions or clauses. Such deed of acknowledgment may be in the form of Schedule E hereto, and may be founded on by all concerned, although the warrant of registration thereon shall be on behalf of the granter only.

## **10 Warrants of registration**

- (1) The forms of warrant of registration provided in Schedule F hereto and the notes to that Schedule shall be substituted for the forms of warrant of registration provided in Schedule F, No. 2, and Schedule H, Nos. 1 and 2, annexed to the Titles to Land Consolidation (Scotland) Act, 1868, and in Schedule A, No. 3, annexed to the Land Registers (Scotland) Act, 1868; and (except as after provided) it shall be sufficient to insert in the warrant of registration on any conveyance, deed, or writing, the name of the person on whose behalf it is to be recorded accompanied by the words " within named, " or such other words as will identify such person, provided that when a conveyance, deed, or writing is to be recorded on behalf of any person not mentioned therein, the designation of such person shall be inserted in such warrant.
- (2) It shall not be competent to challenge the validity of any warrant of registration on any conveyance, deed, or writing recorded before the commencement of this Act, on the ground that the person in whose favour such warrant is conceived is not designed therein, or that the nature of his right is not stated therein, if such Warrant, on being read as forming part of such conveyance, deed, or writing, shall identify such person as a person therein named and designed.
- (3) When any conveyance, deed, or writing, whether recorded before or after the commencement of this Act, is in favour of two or more persons, or of trustees ex officii, and contains a destination to the survivors of such persons, or to the successors of such trustees, all the qualities of such destination shall be presumed to be imported

into a warrant of registration in their favour written on such conveyance, deed, or writing, and it shall not be necessary that such destination be inserted therein.

- (4) When an unrecorded disposition or unrecorded bond and disposition in security, or other unrecorded deed, decree or heritable security is to be recorded along with a separate assignation or separate assignations, or along with a notice of title, the same shall be so recorded in virtue of one warrant of registration in, or as nearly as may be in, the terms indicated in Note 5 to the said Schedule F to this Act, which shall be written on such separate assignation or on the last in date of such separate assignations or on such notice of title.
- (5) Where any conveyance, deed, or writing, or an extract thereof, can be competently recorded in the General Register of Sasines for preservation and execution as well as for publication, and is so recorded, there shall be inserted in any extract to be issued of the same a warrant of execution in the short form provided for in the Schedule to the Writs Execution (Scotland) Act, 1877, and execution may competently follow upon such extract in manner provided in section three of that Act.
- (6) From and after the commencement of this Act it shall not be competent to give investiture *ex propriis manibus*.
- (7) Section one hundred and forty-one of the Titles to Land Consolidation (Scotland) Act, 1868, and section twelve of the Land Registers (Scotland) Act, 1868, and sections six and seven of the Writs Execution (Scotland) Act, 1877, are hereby amended in accordance with the enactments of this section, and Schedule F, No. 2, and Schedule H annexed to the first-mentioned Act of 1868, and Schedule A, No. 3, and Schedule B annexed to the second-mentioned Act of 1868, are hereby repealed.

## **11 Consolidation of superiority and property**

- (1) Where a superior infeft has acquired the property or mid-superiority of land, or where the proprietor of the property or of the mid-superiority infeft therein has acquired the superiority, a minute in or as nearly as may be in the terms of Schedule G- to this Act, written on the disposition whereby such property, mid-superiority, or superiority has been acquired, and recorded along with such disposition in the appropriate Register of Sasines, shall be held to consolidate the property, or the mid-superiority as the case may be, with the superiority, all to the same effect as a minute of consolidation executed in terms of section six of the Conveyancing (Scotland) Act, 1874, and duly recorded.
- (2) Where a superior infeft has acquired the property or mid-superiority of land, and the disposition in his favour contains a clause of resignation *ad perpetuam remanentiam*, the recording of such disposition in the appropriate Register of Sasines, whether before or after the commencement of this Act, shall be deemed to have had and shall have the effect of consolidating the property, or the mid-superiority as the case may be, with the superiority.

## **12 Abolition and commutation of grain, and c. feu-duties**

- (1) In feus granted after the commencement of this Act, the feu-duty shall be payable in sterling money, and it shall not be lawful to stipulate for a feu-duty payable in grain or other fungible, or the amount of which falls to be ascertained by reference to the price or value of grain or other fungible, or otherwise than from the expression of the amount thereof in sterling money in the feu contract or feu charter.



- (2) In the case of feus granted before the commencement of this Act, in which the feu-duty, or part thereof, is payable in grain or other fungible, or the amount of which falls to be ascertained by reference to the price or value of grain or other fungible, or otherwise than from the expression of the amount thereof in sterling money in the feu contract or feu charter, it shall be competent for the superior and the proprietor of the land burdened by such feu-duty to agree as to the amount in sterling money representing the amount of such feu-duty, and to enter into an agreement, in or as nearly as may be in the terms of Schedule G annexed to the Conveyancing (Scotland) Act, 1874, as the circumstances will admit, commuting such feu-duty into a specified annual amount of sterling money, and such agreement being duly recorded in the appropriate Register of Sasines shall be binding on the parties thereto, and their respective successors in title, and on heritable creditors and all other persons interested in the superiority and in the feu in all time thereafter.
- (3) In the case of feus, such as are described in the immediately preceding subsection, the feu-duty payable from which shall not, before the thirty-first day of December, one thousand nine hundred and thirty-two, have been commuted into an annual feu-duty expressed in sterling money, the annual feu-duty thenceforth payable therefrom shall be a sum in sterling money representing the average annual value of the feu-duty actually paid, or payable, or delivered, or deliverable, for the ten years from the first day of January one thousand nine hundred and twenty-three to the thirty-first day of December one thousand nine hundred and thirty-two inclusive. It shall thereafter be incumbent, on either the superior or the proprietor, on the demand of the other, to enter into an agreement in or as nearly as may be in the terms of the said Schedule G, specifying the commutation into sterling money of the feu-duty and to concur in recording the same in the appropriate Register of Sasines. Each party shall pay his own expenses of such agreement, and the amount of stamp duty and recording dues shall be paid equally. If either party shall fail when duly required to enter into such agreement, it shall be competent for either party to apply to the sheriff for a decree declaring the commuted value in sterling money of the feu-duty, and such decree, if and when pronounced, shall be recorded by the party obtaining such decree in the appropriate Register of Sasines. The expenses of such application and procedure thereon shall be in the discretion of the sheriff. Such agreement, or such decree, being duly recorded in the appropriate Register of Sasines, shall be binding on the parties thereto, and their respective successors in title, and on all persons interested in the superiority and in the feu in all time thereafter.
- (4) In cases in which a feu-duty has been allocated by the superior or by an allocation binding on the superior, each part of the feu shall, for the purposes of this section, be regarded as a separate feu. In all other cases in which a feu has been divided, then, after the thirty-first day of December one thousand nine hundred and thirty-two, the proprietor of any part thereof may exercise, as regards the whole feu, the whole powers conferred by this section, and the proceedings shall be as binding and effectual as if exercised by the whole proprietors, and the costs thereby incurred, as far as payable by the proprietors of the feu, shall be borne by such proprietors in proportions corresponding to their ultimate liability for feu-duty.
- (5) The provisions of this section, and any procedure following thereon, shall not affect any liability for feu-duty, or any obligation of relief as regards feu-duty, and such liability and such obligations shall remain in force and be applicable to the feu-duty as commuted.

- (6) The provisions of this section applicable to the commutation of feu-duty payable in grain or other fungible, or the amount of which is ascertainable by reference to the price or value of grain or other fungible, shall be applicable to dry multures as hereinafter defined, in like manner as if the person whose lands are subject to the payment of such dry multures were the feudal vassal in these lands holding of and immediately under the person entitled to exact such dry multures. For the purposes of this subsection, dry multures shall mean and include (a) compensation payable in respect of commutation pursuant to the Thirlage Act, 1799, and (b) all multures and other dues and payments of a similar nature which are exigible irrespective of services rendered, provided that in either case such compensation or multures or dues or payments are payable in grain or other fungible, or that the amount thereof is ascertainable by reference to the price or value of grain or other fungible. Provided also, that in all future proceedings under the last-mentioned Act the compensation shall be fixed in sterling money.
- (7) On the expiry of ten years from the commencement of this Act carriages and services such as are referred to in sections twenty and twenty-one of the Conveyancing (Scotland) Act, 1874, and which shall not have been commuted in terms of those sections, shall cease to be exigible.
- (8) All heirs of entail, liferenters, corporations, trustees, judicial factors, tutors, curators and other guardians, heritable creditors in possession, and other persons who are in actual receipt of the income of any estate of property or of superiority are, notwithstanding any limitations in their titles, hereby authorised, without any further sanction, to exercise all the powers conferred by this section.

### **13 Allocation of feu-duty**

The allocation contained in a memorandum of allocation of feu-duty by a superior separate from the deed in favour of the proprietor, which is dated either before or after the commencement of this Act, shall, on the memorandum being recorded in the appropriate Register of Sasines, be binding on heritable creditors and all others having interest. Provided always that such allocation shall not prejudice or affect the rights of existing heritable creditors who are not parties thereto. Any such memorandum dated after the commencement of this Act may be in or as nearly as may be in the form of Schedule H hereto.

### **14 Abolition of real warrandice**

- (1) From and after the commencement of this Act, it shall not be competent to dispone lands in real warrandice of a conveyance of other lands, and such real warrandice shall not arise ex lege from any contract or agreement entered into after the commencement of this Act.
- (2) On the expiry of twenty years from and after the commencement of this Act, all dispositions in real warrandice of a conveyance of other lands, and all such real warrandice arising ex lege from any contract or agreement, granted or entered into prior to the commencement of this Act, shall be no longer operative.

### **15 Transmission of personal obligation**

- (1) The personal obligation contained in any deed or writing whereby any heritable security is constituted shall not transmit in terms of section forty-seven of the Conveyancing (Scotland) Act, 1874, against any person taking the estate by

conveyance in the sense of that section dated after the commencement of this Act, unless such conveyance be signed by such person.

- (2) After the commencement of this Act, summary diligence, in terms of the said section, shall not be competent against any obligant whose obligation is created by succession, gift or bequest, unless in cases in which there shall be an agreement to the transmission of such obligation executed by such obligant.
- (3) An agreement for transmission of a personal obligation pursuant to the said section may be in terms of Form No. 2 of Schedule A to this Act, or in any other form sufficiently expressing such agreement.

## **16 Prescription following on title and possession**

- (1) Any ex facie valid irredeemable title to an estate in land recorded in the appropriate Register of Sasines shall be sufficient foundation for prescription under the provisions of the Act of the Parliament of Scotland, 1617, cap. 12, " anent prescriptioun of heritable Rightis" and possession following on such recorded title for the space of twenty years continually and together and that peaceably without any lawful interruption made during the said space of twenty years, shall for all the purposes of the said Act of 1617 be equivalent to possession for the space of forty years by virtue of heritable infefments for which Charters and Instruments of Sasine or other sufficient titles are shown and produced according to the provisions of the said Act of 1617, and if such possession following on an ex facie valid irredeemable title so recorded shall have continued for the said space of twenty years, no deduction or allowance shall be made on account of the years of minority or less age of those against whom the prescription is used and objected or of any period during which any person against whom prescription is used and objected was under legal disability.
- (2) The provisions of this section shall have no application to and shall not be construed so as to alter or affect the existing law relating to the character or period of possession, use or enjoyment necessary, to constitute or prove the existence of any servitude or of any public right of way or other public right.
- (3) The provisions of this section shall not be pleadable to any effect in any action in dependence at the commencement of this Act or in any action which shall be commenced prior to the day occurring on the expiry of five years from and after the commencement of this Act, which is hereafter in this and the immediately succeeding section referred to as " the appointed day."
- (4) For the purposes of this section, possession for any space of time prior to the appointed day shall not have effect unless such space of time immediately preceded and was continuous up to such day.
- (5) Section thirty-four of the Conveyancing (Scotland) Act, 1874, is hereby repealed as from and after the appointed day.

## **17 Prescription of obligations, and c**

- (1) The period of twenty years shall be substituted for the period of forty years in that portion of the Act of the Parliament of Scotland, 1617, cap. 12, which begins with the words " and sic like His Majesty with advise foresaid " and ends with the words " as said is " inclusive; and in reckoning the period of prescription under the said portion of the said Act of 1617, as amended by this section, no deduction or allowance shall

be made on account of the years of minority or less age of those against whom the prescription is used and objected or of any period during which any person against whom the prescription is used and objected was under legal disability.

- (2) The provisions of this section shall have no application to and shall not be construed so as to alter or affect the existing law relating to the period of disuse necessary to involve the extinction of any servitude or of any public right of way or other public right.
- (3) The provisions of this section shall not be pleadable to any effect in any action in dependence at the commencement of this Act or in any action which shall be commenced prior to the appointed day, or with regard to any period of twenty years completed prior to the appointed day.

## **18 Notarial execution**

- (1) Any deed, instrument or writing, granted after the commencement of this Act, whether relating to land or not, may, after having been read over to the granter, be validly executed on behalf of such granter if he, from any cause, permanent or temporary, is blind or unable to write, by a law agent or notary public, or a justice of the peace, or, as regards wills or other testamentary writings, by a parish minister acting in his own parish, or his assistant and successor so acting, subscribing the same in the presence of the granter and by his authority, all before two witnesses who have heard such deed, instrument or writing read over to the granter and heard or seen such authority given, and a holograph doequet in the form of Schedule 1 hereto, or in any words to the like effect, shall precede the signature of such law agent or notary public or justice of the peace, or parish minister, or his assistant and successor.
- (2) For the purposes of section thirty-nine of the Conveyancing (Scotland) Act, 1874, a deed executed on behalf of the granter or maker thereof in accordance with subsection (1) hereof shall be deemed to be a deed subscribed by such granter or maker.

## **19 Applicability of forms prescribed by Act**

The forms prescribed by this Act for the completion of the titles to and the conveyance, assignation, discharge or restriction of rights of property or fee in land or heritable securities shall respectively be applicable to all other rights in or over land or in or over a heritable security the title to which may according to the present law and practice be competently completed by the recording of such title in the appropriate Register of Sasines.

## **20 Ratification by married woman**

It shall be no objection to any deed or writing, whether relating to land or not, granted or concurred in by a married woman before or after the commencement of this Act, that the same has not been judicially ratified by her.

## **21 Terce and courtesy**

- (1) Actions of serving to terce and kenning to terce are hereby abolished.
- (2) A widow claiming and desirous of establishing a right of terce out of estate which belonged to her deceased husband may raise an action of declarator in which she shall call as defenders the heir-at-law of her deceased husband, or the other persons

interested in such estate whose rights therein may be affected by her claim, and shall specify the items of the estate out of which she claims terce, and shall crave the court to grant a decree declaring that she has a right of terce out of such estate; and on decree of declarator being pronounced in such action, such widow shall have the same rights and remedies for recovery of her terce out of such estate as she would have had on obtaining a decree of service to terce according to the present law and practice; and where any land out of which according to the present law and practice terce is payable, shall be in the personal occupancy of the proprietor thereof, the widow entitled to such terce shall in respect of such land have right to, and be entitled to recover from such proprietor, such sum as shall be equal to one-third part of the assessed annual value thereof appearing in the valuation roll for the time being of the county or burgh in which such land is situated: Provided always that on paying such terce to the widow such proprietor shall be entitled to make the same deductions therefrom as he would have been entitled to make if the land had been let at the assessed rent to a third party, and he had uplifted the rent and had accounted to the widow for her share.

- (3) (a) A widow having a right of full or lesser terce out of land, or the proprietor of such land, or any person holding a security over such land postponed to such right of terce, shall be entitled to bring an action to have it declared by the Court what is the annual amount of such right of terce, and in such action the Court may make such enquiries as in the circumstances shall seem necessary as to the average free rental of such land over such period of years as the Court may think proper, and as to the average annual charges and expenses forming deductions from that rental during that period affecting the widow's terce, and may take into consideration the prospective future annual amount of such rents, profits, charges, and expenses for the presumptive period of the widow's life, and shall fix and determine a sum which one year with another may be taken as the annual amount of the widow's terce out of such land, and on such amount being determined, the same from and after the date of the decree determining the same, or from and after any succeeding term. of Whitsunday or Martinmas to be named by the Court, shall be deemed to be the widow's terce, and shall not be affected by any fluctuation of such rent or profits . or of the charges or expenses forming deductions therefrom.
- (b) On the amount of such right of terce being so fixed and determined, the proprietor of such land, or any person holding a security over such land postponed to the right of the widow, shall be entitled to redeem such right of terce, and may either in the action in which such amount is fixed and determined, or in a subsequent action, pray the Court to declare what is the capital sum to be paid by him in redemption thereof; and for the purpose of determining such redemption price, the Court shall find and declare the same to be the sum required to purchase from a British Insurance Company of good standing to be named by the Court, an annuity on the life of the widow equal in amount to the terce, and similarly payable, or a Post Office Savings Bank Annuity of the like amount, as the Court in its discretion may determine: Provided that where - the land has been sold and the Court is satisfied that a fair price has been or is being paid therefor, and if it be the case that the redemption price of the full terce ascertained as aforesaid exceeds one-third of the price , obtained for the land, the Court shall limit the redemption price of that terce to one-third of the price of the land.
- (c) Any decree granted in terms of paragraph (b) of this subsection shall not prejudice the right of a widow entitled to lesser terce to the increase over the amount of such lesser terce which would accrue to her on the death of the widow of a predecessor in title of her husband: Provided that the proprietor of

the land out of which such terce is payable, or any person holding a security over such land postponed to the rights of the widows, shall be entitled to redeem the prospective right of a widow entitled to lesser terce, and may either in the action brought in terms of paragraph (a) of this subsection, or in a subsequent action, pray the Court to declare what is the capital sum to be paid by him in redemption thereof, and for the purpose of determining such redemption price the Court shall find and declare the same to be the sum required to purchase from a British Insurance Company of good standing to be named by the Court an annuity on the life of the widow entitled to the lesser terce equal in amount to any such increase and similarly payable, and payment of which is . postponed until the death of the widow of such predecessor in title, or a Post Office Savings Bank Annuity of the like amount and similarly postponed, as the Court in its discretion may determine.

- (d) The proprietor of any land subject to a widower's right of courtesy, or any person holding a security over such land postponed to the right of such widower, shall be entitled to redeem such right of courtesy, and for that purpose shall be entitled to bring an action to have it determined by the Court what is the annual amount of such right of courtesy and what capital sum is to be paid by him in redemption thereof, and in such action the Court may make such enquiries as in the circumstances shall seem necessary as to the average free rental of such land for such period of years as the Court may think proper, and as to the average annual, charges and expenses forming deductions from that rental during that period affecting such right of courtesy, and may take into consideration the prospective future annual amount of such rents, profits, charges, and expenses, for the presumptive period of the widower's life, and shall fix and determine a sum which, one year with another, may be taken as the annual amount of such right of courtesy, and on such amount being determined shall find and declare the redemption price to be the sum required to purchase from a British Insurance Company of good standing to be named by the Court an annuity on the life of the widower equal in amount to the annual amount of his right of courtesy and similarly payable, or a Post Office Savings Bank Annuity of the like amount, as the Court in its discretion may determine.
- (e) On consignment in the hands of the Clerk of Court, on or before a date to be fixed by the Court, of the redemption price of any right of terce, present or prospective, ascertained in terms of paragraphs (b) and (c) of this subsection (limited if necessary as in paragraph (b) as regards the redemption price of the terce) or of any right of courtesy ascertained in terms of paragraph (d) of this subsection, the Court may declare the land to be free and disburdened of such right of terce or courtesy, as the case may be, and on such decree being pronounced the land shall thereafter be possessed, freed and disburdened of such right of terce or courtesy accordingly, and the widow shall, in respect of such right of terce," or the widower shall, in respect of such right of courtesy, cease to have any right or interest in such land or in the rents thereof, but shall have right to the consigned price : Provided always that such decree in the case of a widow shall not prejudice her claim to any arrears of terce due at the date thereof, or to a due proportion of terce for the period from the term or date when the last payment was due, or from the date of the death of her husband, as the case may be, to the date of such consignment, and in the case of a widower shall not prejudice his claim to any rents due to him at, or prior to, the date of such consignment.

- (f) For the purposes of paragraphs (a), (b), (c) and (d) of this subsection, a person holding a security over such land shall mean a person who has entered into possession of such land in virtue of his security over the same, or a person who has given statutory notice to the proprietor of the land requiring payment of the debt for which he holds the land in security, which notice has expired without payment of the debt having been made.
  - (g) In any action raised in virtue of paragraphs (a), (b), (c) and (d) of this subsection the Court may find and declare that there are no free annual rents or profits of the land subject to any right of terce or courtesy, and may declare the land to be free and disburdened of such right of terce or courtesy as the case may be, and on such decree being pronounced the land shall thereafter be possessed, freed and disburdened of such right of terce or courtesy accordingly.
- (4)
- (a) The right to courtesy of any widower whose wife has died after the commencement of this Act, and the right to terce of any widow whose husband has died after the commencement of this Act, shall not be measured by the infertment of such wife or husband, or depend on the completion of the title of such wife or husband by the recording thereof in the appropriate Register of Sasines, but the widower's right to courtesy shall extend to all estate to which his deceased wife had a personal title capable of being completed by infertment, or by being recorded in the appropriate Register of Sasines (including heritable estate to which her title might be completed as aforesaid held in trust for her behoof), and out of which, if her title had been so completed, he would have had a right of courtesy; and the widow's right of terce shall extend to all estate to which her deceased husband had a personal title capable of being completed by infertment or by being recorded in the appropriate Register of Sasines (including heritable estate to which his title might be completed as aforesaid held in trust for his behoof), and out of which, if his title had been so completed, she would have had a right of terce.
  - (b) No widower whose wife, and no widow whose husband, has died after the commencement of this Act shall be entitled, in the case of a widower, to courtesy, and in the case of a widow, to terce, out of land which has been absolutely disposed, or out of any security over land which has been absolutely assigned, in the case of a widower, by his wife, and in the case of a widow, by her husband, for an onerous consideration, although the title of the disponee or assignee shall not have been completed by infertment or by recording of the same in the appropriate Register of Sasines prior to the death of such wife or husband; and the right of any such widower to courtesy, and of such widow to terce, out of any land disposed by such wife or husband in security, shall be postponed to the right of the creditor in whose favour such security shall have been granted, although the title of such creditor shall not have been completed by infertment or by recording of the same in the appropriate Register of Sasines prior to the death of such wife or husband.
  - (c) No widow whose husband has died after the commencement of this Act shall be entitled to claim terce in competition with a creditor of her deceased husband, and no widower whose wife has died after the commencement of this Act shall be entitled to claim courtesy in competition with a creditor of his deceased wife.
- (5) For the purposes of this section, "widow" shall include a woman who has obtained a decree of divorce against her husband and "widower" shall include a man who has obtained a decree of divorce against his wife.

- (6) The charges and expenses which are to form deductions from the rental in ascertaining terce or courtesy in terms of this section shall include any feu-duty, ground annual, teind, stipend, or land tax, interest on all heritable debts due by the deceased or affecting his or her heritable estate, interest on all moveable debts due by the deceased which his or her moveable estate is insufficient to meet, interest at such rate as the Court may think proper on any capital sums which have been applied by the heir or other representative of the deceased in the payment of any debts affecting or which but for such payment would have affected the heritable estate, or in redeeming casualties in terms of the Feudal Casualties (Scotland) Act, 1914, rates, taxes and assessments payable in respect of the deceased's heritable estate, and all other burdens on and payments falling to be made out of the rents and other income of the deceased's heritable estate, and in all cases where necessary such reasonable allowance as the Court in its discretion may fix for repairs, for insurance against loss by fire and other risks, and for factorage and management, and also for loss of rents through the land, or part of it, being unlet, or through defaulting tenants.
- (7) If in any action raised under the provisions of this section for determining terce or courtesy it shall appear that there is more than one subject out of which terce or courtesy is claimed, the Court, if a defender of such action shall so require, shall determine what is the amount of terce or courtesy payable out of each subject.
- (8) Any action or proceedings under this section may be raised—
- (a) in the Court of Session, or alternatively;
  - (b) where the land to which such action or proceedings relate is situated wholly within one county, or partly in one county and partly in a county or counties contiguous thereto, then in the sheriff court of the county in which the whole or the greater part of such land is situated.
- (9) An extract of any decree pronounced in terms of this section may be recorded in the appropriate Register of Sasines.

## 22 Assimilation of law as regards legitim and jus relictse, and c

- (1) In the case of any person dying after the commencement of this Act, the rules of law which determine what estate belonging to a deceased is subject to claims for legitim shall be applicable in determining what estate belonging to the deceased is subject to the claim for jus relictse or jus relictii : And the estates of all such persons shall be distributed on the footing that there shall no longer be any distinction between the description of estate subject to claims for legitim and the description of estate subject to claims for jus relictse and jus relictii.
- (2) All debts which if due to any person dying after the commencement of this Act would, according to the present law and practice or in terms of this section, be subject to legitim and jus relictse or jus relictii shall, if due by the deceased or out of his or her estate, form, so far as the estate on which such debts are secured may be insufficient to meet the same, deductions from the deceased's moveable estate before ascertaining legitim and jus relictse or jus relictii.

## 23 Ground-annuals

- (1) Any ground-annual which appears in the appropriate Register of Sasines as a burden on the land out of which it is payable may be transferred in whole or in part by the creditor therein by an assignation in, or as nearly as may be in, the terms of



Form No. 2 of Schedule K to this Act; and upon such assignation being recorded in the appropriate Register of Sasines it shall have the same force and effect as a duly recorded assignation or disposition and assignation in the form generally in use at the passing of this Act. Such assignation shall, unless otherwise expressed, imply :—

- (a) That the same is granted in favour of the assignee, heritably and irredeemably, with a destination to his heirs and assignees whomsoever :
  - (b) That the ground-annual and duplications or other casual payments, if any, or (if such duplications or casual payments have been commuted into an additional ground-annual) the additional ground-annual thereby assigned, are to be uplifted and taken by the assignee furth of and from the land specified in such assignation as being the land out of which the same are payable, or furth of any part or portion of such land, and readiest rents, maills and duties of the same, in terms of the contract of ground-annual or other deed or memorandum of agreement constituting such ground-annual and such duplications and other casual payments, or additional ground-annual, if any, and at such terms or dates or periods and with such interest and penalties in case of nonpayment at the due dates as are provided for in such contract of ground-annual or other deed, or in such memorandum of agreement:
  - (c) That there are also assigned the deed constituting such ground-annual and the memorandum of agreement, if any, by which the commutation of grassums, duplications or other casual payments has been effected, and the whole clauses and obligations therein contained so far as the cedent in such assignation has right thereto and all diligence and execution competent to him thereon :
  - (d) That where the cedent can competently do so he disposes to the assignee the land out of which the ground-annual and the casual payments or additional ground-annuals, if any, are payable, with the parts and pertinents thereof, and his whole right, title and interest therein, but with and under any burdens and conditions affecting the same ranking prior to his right, and that in real security to the assignee of such ground-annual and others, and of the whole other payments or prestations, conditions, obligations and others incumbent on the obligant for such ground-annual and others :
  - (e) That where the cedent can competently do so he assigns to the assignee the rents, maills and duties of the land out of which the ground-annual is payable, and also the writs thereof, and the writs constituting the title to such ground-annual, all to the full extent of his own right therein.
- (2) Such ground-annual may be effectually renounced and discharged, and the land out of which the same is payable disburdened of the same, in whole or in part, by a discharge in, or as nearly as may be in the terms of Form No. 4 of Schedule K to this Act duly recorded in the appropriate Register of Sasines.
  - (3) Such ground-annual may be restricted as regards any portion of the land out of which the same is (payable by a deed of restriction in, or as nearly as may be in, the terms of Form No. 7 of Schedule K to this Act, and on such deed of restriction being recorded in the appropriate Register of Sasines, such ground-annual shall be restricted accordingly to the land out of which the same is payable, other than the land disburdened by such deed of restriction, which land thereby disburdened shall be released from the burden of such ground-annual.
  - (4) The Heritable Securities (Scotland) Act, 1894, as modified by the Sheriff Courts (Scotland) Act, 1907, and Acts amending the same shall apply to actions of maills and duties for the recovery of a ground-annual in cases in which according to the present law and practice an action of maills and duties is competent.

- (5) In the event of any ground-annual falling into arrear for two years together, the creditor holding a duly recorded title thereto shall be entitled to raise an action of adjudication against the proprietor of the land out of which the same is payable, and any other persons interested therein whose rights are postponed to that of the creditor in such ground-annual, and in such action the creditor may set forth that the ground-annual is in arrear for two years, and may crave the Court to adjudge and declare that such proprietor and other persons, if any, have by their failure to pay such arrears forfeited their rights in and to such land, and that such land, together with the rents, maills and duties thereof current and unpaid at the date of such action, do from that date belong to the pursuer absolutely, and the Court may, after service on the proprietor and on the other persons interested, if any, and after such intimation and procedure as the Court may think fit, grant such application and issue decree in the terms craved; and on such decree, which may be in or as nearly as may be in the terms of Form No. 8 of Schedule K to this Act, being pronounced, and an extract thereof in which the land shall be described at length or, by reference, being recorded in the appropriate Register of Sasines, such land shall belong and pertain to the creditor in such ground-annual freed and disencumbered of all rights and burdens postponed to the ground-annual, and the right in and to such land of such proprietor and any other persons called as defenders to such action shall be extinguished.
- (6) Any action raised in virtue of the immediately preceding subsection of this section may be raised in the Sheriff Court of the county in which the land out of which such ground-annual is payable or any part of such land is situated, or where the ground-annual is not less in amount, than two pounds ten shillings per annum, in the Court of Session.

## 24 Registered leases. Assimilation of forms

All enabling powers and rights which, by this Act, are conferred upon or implied in favour of a person in right of land or of a security over land including power of sale and other rights under a bond and disposition in security, shall, so far as applicable, be held as conferred upon a person who has right to a lease, or to a security over a lease respectively; and the forms prescribed by this Act may be used in connection with the constitution, transmission, restriction and discharge of securities over leases, and the completion of titles to leases and to securities over the same, and to sales thereof under such securities, and such forms shall have the same force and effect as the corresponding forms prescribed by the Registration of Leases (Scotland) Act, 1857, and the clauses held as implied in any of the forms prescribed by this Act shall, so far as applicable, be held as implied when such forms are used in connection with leases and securities over the same: Provided that in applying this Act and relative schedules to leases and securities over the same the following modifications and such other verbal modifications as may be necessary shall be given effect to :—

- (1) For "lands," "lands and others" or "subjects" there shall be substituted "lease," for "conveyance" or "disposition" there shall be substituted "assignation" (except that in Form No. 1 of Schedule C to this Act the word "lease" shall be substituted for the word "disposition" where it is an unrecorded lease that is assigned), for "bond and disposition in security" there shall be substituted "bond and assignation in security," for "assignation of a bond and disposition in security" there shall be substituted "translation of a bond and assignation in security," for "dispone" or "convey" there shall be substituted "assign," for "proprietor" there shall be substituted "lessee," for "disponee" there shall be substituted "assignee," for "infert" there shall be

substituted " having a recorded title, " for "superior" there shall be substituted " land lord, " and for " feu-duty" there shall be substituted " rent due to the landlord " :

- (2) In an assignation of a lease, or in a bond and assignation in security of a lease, or in a notice of title relating to a lease, there may be substituted for a description of the land a reference to such lease in or as nearly as may be in the terms of Schedule J to this Act:
- (3) In the event of the lease, to which a title is being completed by notice of title under this Act, not having been recorded in the appropriate Register of Sasines, it shall be recorded, therein along with such notice of title in which the lease shall be referred to in manner prescribed in Note 5 to Schedule J to this Act, and such lease, before being so recorded, shall be docqueted in manner prescribed in Note 7 to Schedule B to this Act, and, on the same being so recorded, it shall have the same force and effect as a recorded title under the Registration of Leases (Scotland) Act, 1857, and Acts amending the same:
- (4) It shall not be necessary in a writ of acknowledgment in terms of Schedule E to the Registration of Leases (Scotland) Act, 1857, to mention or describe the land, provided that the lease is therein referred to in or as nearly as may be in the terms of Schedule J to this Act, and section seven of that Act and Schedule E to that Act annexed are hereby amended accordingly:
- (5) A renunciation of a lease in terms of Schedule G to the Registration of Leases (Scotland) Act, 1857, may competently be granted by a person not holding a recorded title to such lease, provided that he shall therein deduce his title from the person holding the last recorded title in manner prescribed in Note 4 to Schedule J to this Act, and on such renunciation being recorded in the appropriate Register of Sasines such lease shall be as effectually renounced as if the title of the granter of such renunciation had been completed as at the date of such recording by notarial instrument in the appropriate form duly expedite and recorded according to the present law and practice, and section thirteen of the said Act of 1857, and Schedule G annexed to that Act, are hereby amended accordingly :
- (6) Section twenty-four of the Titles to Land Consolidation (Scotland) Act, 1868, and section forty-four of the Conveyancing (Scotland) Act, 1874, as amended by section five of this Act, shall apply to a lease and to a security over a lease, and in the warrant, interlocutor or decree of Court conferring a right to such lease or security over the same or granting authority to complete title thereto, and also in the application upon which such warrant, interlocutor or decree proceeds, such lease may be referred to in or as nearly as may be in the terms of Schedule J hereto :
- (7) An adjudger or purchaser of a lease, or an adjudger or assignee of a security over a lease, may complete his title thereto by recording in the appropriate Register of Sasines an extract of the decree of adjudication or of sale (as the case may be) or may use such extract decree as an assignation or one of a series of assignations of an unrecorded lease or of an unrecorded security over a lease, and section ten of the Registration of Leases (Scotland) Act, 1857, is hereby amended accordingly.

## **25 Form of bond and disposition in security**

- (1) The import of the after-mentioned clauses of the Form No. 1 of Schedule FF annexed to the Titles to Land Consolidation (Scotland) Act, 1868, occurring in any bond and disposition in security (whether granted before or after the commencement of this Act) shall from and after the commencement of this Act be as follows, videlicet:—

- (a) The clause of assignation of rents shall be held to import an assignation to the creditor of the rents and other duties (including feu-duties and casualties in the case of a superiority and ground-annuals and grassums in the case of a ground-annual) payable after the date from which interest on the principal sum in the security commences to run, irrespective of whether the terms of payment of such rents and others are the legal or the conventional terms, and including therein a power to the creditor to insure all buildings against loss by fire, but only for such sum as may be necessary to cover the creditor's interest therein, and to recover from the debtor the premiums paid for that purpose, and also on default in payment of principal or interest, or on the notour bankruptcy of the proprietor of the land conveyed in security or on his granting a trust deed for behoof of his creditors, to enter into possession of such land and to uplift the rents and other duties thereof, and to insure against loss by breakage of glass and against claims by tenants and third parties, and all such other incidental risks as a prudent proprietor would reasonably insure against, and to make all necessary renewals and repairs on the security subjects, including the roads, fences, ditches and drains, subject to accounting to the debtor for any balance of rents or other sums actually received beyond what is necessary for payment to such creditor of the principal and interest and penalty due to him, and of all expenses incurred by him in reference to such possession, including the expenses of factorage, management, insurance, renewals and repairs:
  - (b) The clause of assignation of writs shall be held to import an assignation to the creditor of writs and evidents, including searches, and all unrecorded and unfeudalised conveyances, with power to the creditor in the event of a sale under the powers of the bond, but subject to the rights of any person holding prior rights to possession of such writs and evidents, to deliver the same, so far as in the creditor's possession, to the purchaser, and to assign to the purchaser any right he may possess to have the writs and evidents made forthcoming:
  - (c) The clause reserving right of redemption shall be held to import a right to redeem the security, which may be exercised by the persons and in manner prescribed in this Act:
  - (d) The clause granting power of sale shall be held to import a right to the creditor in default of payment to exercise power of sale in the manner prescribed in this Act, and also power to the creditor, after there has been failure to comply with a demand for payment, and to the same extent as would have been competent to the debtor, to obtain an allocation of any feu-duty or ground-annual affecting the security subjects in such proportions and on such terms as to augmentation or otherwise as may be agreed upon between the superior or the holder of the ground-annual and the creditor, and the memorandum of such allocation of feu-duty may be endorsed on the deed or instrument or notice of title forming the infetment of the debtor, or may be a separate memorandum in or as nearly as may be in the terms of Schedule H to this Act, but such allocation of feu-duty or ground-annual shall be without prejudice to the rights of other persons liable therefor.
- (2) Such bond and disposition in security shall also import that the debtor shall be personally liable to the creditor in the whole expenses of the preparation and execution thereof, and of recording the same, and all reasonable expenses incurred by the creditor in calling up the same and realising or attempting to realise the subjects of security, and exercising the other powers conferred upon him. .
- (3) Section one hundred and nineteen of the said Act of 1868 is hereby amended in accordance with this section.

## **26 Heritable creditors' remedies for recovery of feuduties and ground-annuals**

Where the security subjects in a bond and disposition in security, whether granted before or after the commencement of this Act, consist of or include one or more superiorities or one or more ground-annuals, the creditor, provided his title to the debt and security be complete and the debtor be in default in payment of principal or interest, may raise an action against the superior or person in right of the ground-annual, concluding for declarator that he has right to the feu-duties and casualties or ground-annuals and grassums payable to such superior or person, and may give notice by registered letter signed by the creditor or his law agent of the raising of such action to the vassals or the proprietors of the land, from which such ground-annuals are payable, and from and after the date when such notice is received by them they shall be interpellated from making payment of the feu-duties, including duplicands or other multiples thereof, and casualties or ground-annuals and grassums, or additional feu-duties or ground-annuals constituted in lieu of such duplicands or other multiples, casualties and grassums, to the superior or person in right of the ground-annuals, and any payment thereafter made by them to such superior or person shall be of no effect in a question with the creditor in the event of his obtaining decree; and upon intimation of the decree obtained in such action to the vassals or proprietors of the land by registered letter signed by the creditor or his law agent, they shall make payment to the creditor of the feu-duties including duplicands or other multiples thereof and casualties or ground-annuals and grassums, and failing their doing so the creditor shall be entitled to recover the same in the same manner and subject to the same defences on the part of the vassals or proprietors of the land as if he were the superior or person in right of the ground-annuals duly infeft, and subject to accounting therefor to the superior or person in right of the ground-annuals, and payment to the creditor shall "be a complete exoneration and discharge to such vassals Or proprietors; and the action and the notice thereof and the intimation of the decree may be in or as nearly as may be in the forms, with the necessary modifications, authorised by section three of the Heritable Securities (Scotland) Act, 1894, and contained in Schedules A, B and C to that Act as modified by the Sheriff Courts (Scotland) Act, 1907, and Acts amending the same: Provided that such action may be combined with an action for recovery of maills and duties and that nothing in this section contained shall deprive the creditor of any existing remedy competent to him for recovering such feu-duties, duplicands, multiples and casualties or ground-annuals and grassums.

## **27 Restriction of agent's lien**

From and after the commencement of this Act it shall be incompetent for any law agent or notary public acting for the proprietor or creditors or others, whose rights in or over land conveyed in security are postponed to those of the creditor in such heritable security, to acquire over the writs and evidents as against such creditor any right of hypothec, lien or retention after the date of recording such heritable security.

## **28 Assignment of bond and disposition in security**

Any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be transferred, in whole or in part, -by the creditor in right thereof by an assignation in or as nearly as may be in the terms of Form No. 1 of Schedule K to this Act, and upon such assignation being recorded in the appropriate Register of Sasines, it shall have the same force and effect as a duly recorded assignation granted in the form prescribed in section one hundred and twenty-four of the Titles to Land Consolidation (Scotland) Act, 1868.

Such assignation shall, except so far as otherwise therein stated, be deemed to convey to the grantee all rights competent to the granter to the writs, and to the effect inter alia of vesting the assignee in the full benefit of all corroborative or substitutional obligations for the debt or any part thereof, whether contained in bonds or clauses of corroboration or agreements in gremio of conveyances, or by operation of law or otherwise, and right to recover payment from the debtor of all expenses properly incurred by the creditor in connection with such security, and shall have the effect of entitling the grantee, or those deriving right from or through him, to the benefit of any notices which have been served calling up the security, and all procedure which may have followed thereon, to the effect that the grantee or those deriving right from or through him may proceed -as if he or they had originally served or instituted the same.

### **29 Discharge of bond and disposition in security**

Any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be effectually renounced and discharged and the land therein effectually disburdened of the same, in whole or in part, by a discharge in or as nearly as may be in the terms of Form No. 3 of Schedule K to this Act, duly recorded in the appropriate Register of Sasines.

### **30 Restriction of bond and disposition in security**

The security constituted by any bond and disposition in security, whether dated before or after the commencement of this Act, duly recorded in the appropriate Register of Sasines, may be restricted as regards any portion of the land, thereby conveyed by a deed of restriction in or as nearly as may be in the terms of Form No. 5 of Schedule K to this Act, and, upon such deed of restriction being recorded in the appropriate Register of Sasines, the security shall be restricted to the land therein contained other than the land disburdened by such deed, and the land thereby disburdened shall be released from such security wholly, or to the extent specified in such deed of restriction. A partial discharge and deed of restriction of a bond and disposition in security may be combined in one deed, which may be in or as nearly as may be in the terms of Form No. 6 of the said Schedule K.

### **31 Description of lands and deduction of title unnecessary in certain deeds relating to heritable securities**

In assignations and discharges, whether total or partial, granted in accordance with the provisions of sections twenty-eight and twenty-nine of this Act, a description of the land shall not be necessary, nor shall it be necessary to insert such a description in a writ of acknowledgment in terms of Schedule 1I to the Titles to Land Consolidation (Scotland) Act, 1868, provided that the bond and disposition in security to which it relates is therein referred to in manner prescribed in Schedule K to this Act, and section one hundred and twenty-five of the said Act of 1868 as amended and re-enacted by section sixty-three of the Conveyancing (Scotland) Act, 1874, and the said Schedule 1I are hereby amended accordingly; and in such assignations and discharges, and in deeds of restriction granted in accordance with section thirty of this Act, it shall not be necessary to deduce the title of the granter, nor in such writs of acknowledgment the title of the deceasing creditor, if such granter holds or such deceasing creditor held a recorded title and the date is given of the recording of the same in the appropriate Register of Sasines in manner prescribed in Note 2 to Schedule K to this Act.

### **32 Redemption of bond and disposition in security Notice and procedure and evidence of service**

- (1) A debtor in a bond and disposition in security, whether dated before or after the commencement of this Act, or the proprietor of the land disposed in security or part thereof shall be entitled to redeem the security at the place and at the date of payment or at any term of Whitsunday or Martinmas thereafter, on giving three months' premonition to the creditor, which premonition may be in or as nearly as may be in the terms of Form No. 1 of Schedule L to this Act, and may be delivered to the creditor or sent by registered post to him at his last known address, and an acknowledgment signed by the creditor in or as nearly as may be in the terms of -Form No. 2 of the said schedule, or a certificate in or as nearly as may be in the terms of Form No. 3 of the said schedule, accompanied (if the premonition has been posted) by the postal receipt, shall be sufficient evidence of such premonition, which, if posted, shall be held to have been given on the day next after the day of posting; and, if the address of the creditor is not known, or if the registered packet containing such premonition is returned to the debtor or proprietor, or his law agent, with intimation that the same could not be delivered, such premonition shall be sent to the Keeper of the Record of Edictal Citations, General Register House, Edinburgh, and shall be equivalent to premonition to the creditor, and an acknowledgment of receipt by the Keeper of the Record of Edictal Citations on a copy of such premonition shall be sufficient evidence thereof; and, at the term of payment mentioned in such premonition, and on payment of the principal sum secured, interest due thereon, and all expenses incurred by the creditor, as provided in section twenty-five of this Act, the creditor shall be bound to grant in favour of the debtor or proprietor, a valid discharge of such security; and where, on account of the death or absence of the creditor or from any other cause, the debtor or proprietor cannot obtain a discharge, it shall be competent to him to consign the amount due, including interest and expenses, if any, in the bank specified in the bond, if any bank shall be so specified, and, if not, in one or other of the banks in Scotland, incorporated by or under Act of Parliament or Royal Charter, to be made forthcoming to the creditor or his representatives, and thereupon a certificate may be expedite by any agent, in, or as nearly as may be in, the terms of Form No. 4 of Schedule L to this Act, and the recording thereof in the appropriate Register of Sasines shall have the effect of completely disencumbering the land of such security as at the date of such consignment to the extent of the amount so consigned. For the purposes of this section the creditor shall be the person appearing on the record as holding the last recorded title to the bond and disposition in security to be redeemed, or if such person be dead, the reputed, substitute or person entitled to succeed thereto in terms of the bond or any recorded transmission thereof, notwithstanding any alteration of the succession not appearing on the Register of Sasines.
- (2) The stamp duty chargeable on any such certificate granted by a law agent shall be the same as if it were granted by a notary public.

### **33 Notice calling up bond and disposition in security**

Without prejudice to his rights and remedies under the personal obligation the creditor in a bond and disposition in security, or any part thereof, whether dated before or after the commencement of this Act, may serve a notice calling up the same in or as nearly as may be in the terms of Form No. 1 of Schedule M to this Act. Such notice shall be given to the person infeft in the land disposed in security and appearing on the record as the proprietor, or if the person last infeft in the land or any part thereof be dead, then to the reputed substitute or person entitled to succeed to the same in

terms of the last recorded title thereto, notwithstanding any alteration of the succession not appearing on the Register of Sasines. If the last proprietor was an incorporated company which has been removed from the Register of Joint Stock Companies or a person deceased who has left no heirs or whose heirs are unknown, notice shall be given to the Lord Advocate. Where the estates of the debtor have been sequestrated under the Bankruptcy (Scotland) Act, 1913, or any Act thereby repealed, notice shall be given to the trustee in the sequestration (unless such trustee has been discharged) as well as to the bankrupt. If the proprietor be a body of trustees, it shall be sufficient if the notice is given to a majority of the trustees infest in the land. There shall be no obligation on the creditor to give notice to any other person unless for the purpose of preserving recourse against such other person. Notice under this section shall cease to be effective for the purposes of a sale under the powers of a bond and disposition in security after a period of five years from the date of such notice if no exposure to sale of the land or any part thereof has followed thereon, or otherwise after five years from the date of the last exposure to sale of the land or part thereof following on such notice.

### **34 Service of notice**

Notice under the immediately preceding section may be delivered to the person to whom it is desired to be given or sent by registered post to him at his last known address, or in the case of the Lord Advocate at the Crown Office, Edinburgh, and an acknowledgment signed by such person in or as nearly as may be in the terms of Form No. 2 of Schedule M to this Act, or a certificate in or as nearly as may be in the terms of Form No. 3 of that schedule, accompanied (if the notice has been posted) by the postal receipt, shall be sufficient evidence of the service of such notice, and if the address of the person to whom such notice is desired to be given is not known, or if the registered packet, containing such notice, is returned to the creditor or his law agent, with an intimation that the same could not be delivered, such notice shall be sent to the Keeper of the Record of Edictal Citations, General Register House, Edinburgh, and shall be equivalent to notice to such person, and an acknowledgment of receipt by the Keeper of the Record of Edictal Citations, on a copy of such notice, shall be sufficient evidence thereof. Such notice shall be deemed to be formal requisition for all purposes, including the purposes of the Heritable Securities (Scotland) Act, 1894; and if posted shall be held to be given on the next day after the day of posting.

### **35 Power to dispense with or shorten inducise**

It shall be competent to the person to whom such notice has been given, with the consent of the creditors, if any, holding securities ranking *pari passu* with or postponed to the security held by the creditor giving notice, to dispense with the whole or part of the period of notice by a minute written upon the said notice or upon a copy thereof, in or as nearly as may be in the terms of Form No. 2 of Schedule M to this Act.

### **36 Advertisement**

After the expiry of three months from the date of giving such notice, or the expiry of such shorter period as may have been agreed to under the immediately preceding section, the creditor, failing payment of the whole sums to which he is entitled, may advertise the land or any part thereof for sale by public roup.



### **37 Contents of advertisement**

Such advertisement shall specify shortly the land to be sold, and the day, hour, and place of sale, and the upset price or prices, and it shall not be necessary to state that the sale is proceeding under the powers contained in a bond and disposition in security.

### **38 Periods of advertisement and newspapers**

- (1) The period of advertisement shall not be less than four consecutive weeks when the upset price or the cumulo upset prices of the land do not exceed one thousand pounds, and, when such price or cumulo prices exceed that amount, such period shall not be less than six consecutive weeks, in each case prior to the date of exposure to sale.
- (2) During the period of advertisement such advertisement shall be inserted at least once a week in a daily newspaper published in Edinburgh or in Glasgow, and in every case in a newspaper circulating in the district in which the land or the chief part thereof is situated and published either in the county in which the land or part thereof lies, or in the next or a neighbouring county of Scotland: Provided that as regards land situated in the County of Midlothian due publication of the advertisement in one daily newspaper published in Edinburgh shall be sufficient, and that as regards land situated in the County of Lanark, due publication of the advertisement in one daily newspaper published in Glasgow shall be sufficient: Provided also that where the upset price, or the cumulo upset prices, of the land do not exceed one thousand pounds, it shall be sufficient if such advertisement be inserted at least twice a week in a newspaper circulating in the district in which the land or the chief part thereof is situated and published either in the county in which the land or part thereof lies or in the next or a neighbouring county of Scotland, or once a week in each of two such newspapers, or once a week in such newspaper and once a week in a Scottish daily newspaper circulating in the district, irrespective of the place of publication in Scotland of such daily newspaper.
- (3) The date of exposure shall not be less than twenty-eight days if the upset price or the cumulo upset prices do not exceed one thousand pounds, and forty-two days if the upset price or the cumulo upset prices exceed one thousand pounds, both from the date of the first insertion of the advertisement.
- (4) The same provisions as to advertisement and place and date of exposure shall apply in the event of re-exposure, except that the period of advertisement shall not be less than three consecutive Weeks, and that the date of exposure shall be not less than twenty-one days from the date of the first insertion of the advertisement.
- (5) A copy of any such advertisement with a certificate by the publisher, printer, or editor of the newspaper in which the same is inserted, shall be sufficient evidence of such advertisement.
- (6) For the purposes of this section, a week shall mean a period of seven consecutive days.

### **39 Where exposure to sale to take place**

Any exposure to sale may take place in Edinburgh or Glasgow, or at any burgh within the meaning of the Town Councils (Scotland) Acts, 1900 to 1923, which is situated within the county in which the land, or the chief part thereof, lies, or which is nearest to such land, or the chief part thereof, whether within the same county or not.

**40 Exposure in lots and apportionment of feu-duty**

The land, or any part thereof, may be exposed to sale, in whole or in lots, at such upset price or prices, and subject to such proportion of any existing feu-duty, ground-annual, stipend, valued rent or land tax, as the creditor may think proper, and, without prejudice to the rights of any third party, the creditor may, in selling the land in lots, provide that the proprietor for the time being of any lot shall be obliged to relieve the proprietor or proprietors of another lot or lots of the whole or such part of an existing feu-duty and casualties, ground-annual, stipend or land tax, as the creditor may think proper, and for that purpose the creditor may create such obligation a real burden on such lot.

**41 Purchasers protected**

- (1) All proceedings under sections thirty-two to forty, inclusive, of this Act shall be valid and effectual notwithstanding that any person to whom premonition or notice requires to be given in terms of this Act may be in pupillarity or minority or subject to any legal incapacity, and any sale and disposition in implement thereof shall be as valid to the purchaser as if made by the proprietor of the land not being under disability, and any such disposition shall import an assignation to the purchaser of the warrandice contained or implied in the bond and disposition in security under which the land is sold, and also an obligation by the granter of the security to ratify, approve and confirm the sale and disposition.
- (2) Where a disposition bears to be granted in exercise of the power of sale contained in a bond and disposition in security the title of the purchaser shall not be challengeable in the case of a disposition recorded before the commencement of this Act, after the lapse of five years from the commencement of this Act, and in the case of a disposition recorded after the commencement of this Act, after the lapse of five years from the date of such recording, on the ground that the debt had ceased to exist unless that fact appeared on the Register of Sasines or was known to the purchaser prior to payment of the price, or on the ground of want or defect of notice or advertisement, or that such power was otherwise improperly or irregularly exercised, but without prejudice to any claim of damages competent against the person exercising the power.

**42 Mode of disburdening land sold under power of sale in heritable security**

- (1) Where land is sold by a heritable creditor under the powers competent to creditors in heritable securities, and no surplus of the price remains for consignation in terms of section one hundred and twenty-two of the Titles to Land Consolidation (Scotland) Act, 1868, or where such surplus remains and the same has been consigned in bank in terms of the said section one hundred and twenty-two, it shall be competent to any law agent or notary public to execute a certificate to the effect that no surplus remains where such is the case, or where such surplus remains and has been so consigned in bank, to the effect that such consignation has taken place, which certificate shall be in or as nearly as may be in the terms of Schedule N to this Act, and the disposition by the creditor to the purchaser shall, along with such certificate, when recorded in the appropriate Register of Sasines, have the effect of completely disencumbering the land sold of all securities and diligences posterior to the security of such creditor, as well as of the security and diligence of such creditor himself, save and except when the security and diligence of such creditor and any prior securities and diligences shall be assigned by way of further or collateral security to the purchaser.

- (2) The stamp duty payable in respect of any certificate granted pursuant to this section, whether granted by a notary public or a law agent, shall be the same duty as is exigible in respect of a notarial certificate of no surplus.

#### **43 Act to apply to all heritable securities**

The forms provided by this Act relative to bonds and dispositions in security or transactions incidental thereto, shall except as in this Act otherwise expressly provided apply, as nearly as may be, to all heritable securities, whether granted before or after the commencement of this Act, and deeds transmitting, discharging and restricting the same, and all notices of title completing a title thereto, except in so far as such provisions, enactments or forms may be inapplicable to the form or objects of such securities, and nothing in this Act contained shall prejudice or restrict the powers, rights, privileges and immunities of creditors in heritable securities, or of those deriving right from them, according to the present law and practice.

#### **44 General Register of Inhibitions and Register of Adjudications to be combined; limitation of effect of entries therein**

- (1) The General Register of Inhibitions and Interdictions and the Register of Adjudications shall be combined, and the Keeper thereof shall keep only one register for inhibitions, interdictions, adjudications, reductions, and notices of litigiousity, and such register shall be called the Register of Inhibitions and Adjudications; and a reference in any public, general or local Act to the General Register of Inhibitions or the Register of Adjudications shall be deemed to mean and include such Register of Inhibitions and Adjudications.
- (2) (a) No action whether raised before or after the commencement of this Act relating to land or to a lease or to a heritable security, shall be deemed to have had or shall have the effect of making such land, lease or heritable security litigious, unless and until a notice relative to such action in or as nearly as may be in the form of Schedule RR annexed to the Titles to Land Consolidation (Scotland) Act, 1868, shall have been or shall be registered in the Register of Inhibitions and Adjudications in the manner provided by section one hundred and fifty-nine of that Act.
- (b) No decree in any action of adjudication of land or of a lease or of a heritable security, whether pronounced before or after the commencement of this Act, and no abbreviate of any such decree shall be deemed to have had or to have any effect in making such land, lease or heritable security litigious.
- (3) (a) All inhibitions and all notices of litigiousity registered in terms of section one hundred and fifty-nine of the Titles to Land Consolidation (Scotland) Act, 1868, subsisting at the commencement of this Act shall prescribe and be of no effect on the lapse of five years after such commencement or at such earlier date as they would prescribe according to the present law and practice; .and all inhibitions and notices of litigiousity which relate to land or to a lease or to a heritable security and which shall be first registered after the commencement of this Act, shall prescribe and be of no effect on the lapse of five years from the date on which the same shall respectively take effect: Provided that in no case shall litigiousity be pleadable or be founded on to any effect after the expiry of six months from and after final decree is pronounced in the action creating such litigiousity.

- (b) From and after the commencement of this Act interdiction, whether judicial or voluntary, shall be incompetent, and any interdiction which is legally operative at such commencement shall remain legally operative for not longer than the period of five years thereafter.
- (4)
- (a) The proviso contained in the first paragraph of section forty-four of the Bankruptcy (Scotland) Act, 1913, shall on the lapse of five years from and after the commencement of this Act apply to sequestrations awarded before the passing of that Act and still subsisting as well as to sequestrations awarded subsequent thereto, and as if the abbreviate of the petition and deliverance in any such sequestration awarded before the passing of that Act had been recorded at the date of the commencement of this Act.
  - (b) In the event of any land or lease or heritable security having been acquired by the bankrupt, or having descended or reverted, or come to him after the date of the sequestration, and before the bankrupt shall have obtained his discharge, and of such land or lease or heritable security having been declared to be vested in the trustee in terms of section one hundred and three of the Bankruptcy (Scotland) Act, 1856, or of section ninety-eight of the Bankruptcy (Scotland) Act, 1913, it shall be competent to the trustee, and he is hereby required within one month after such land or lease or heritable security shall have been declared to be vested in him, to record, in the appropriate Register of Sasines with regard to such land or lease or heritable security, a memorandum in the form provided by the said section forty-four of the said Act of 1913, as amended by this Act, which memorandum being so recorded shall have the effect of a memorandum recorded in terms of the said section forty-four as amended as aforesaid : Provided always that all decrees obtained before the expiry of one year after the commencement of this Act, declaring any land or lease or heritable security to be vested in a trustee in bankruptcy shall, for the purposes of this section be deemed to have been dated within one month before the recording of such memorandum, if the same shall have been recorded within one year after the commencement of this Act.
  - (c) No deed, decree, instrument or writing granted or expedite by a person whose estates have been sequestrated under the Bankruptcy (Scotland) Act, 1856, or the Bankruptcy (Scotland) Act, 1913, or the heirs, executors, successors or assignees of such person relative to any land or lease or heritable security belonging to such person at the date of such sequestration or subsequently acquired by him shall be challengeable or denied effect on the ground of such sequestration if such deed, decree, instrument or writing shall have been granted or expedite, or shall come into operation at a date when the effect of recording the abbreviate provided for under section forty-four of the said Act of 1913, as amended by this Act, shall have expired in terms of the said section as amended, as aforesaid, unless the trustee in such sequestration shall before the recording of such deed, decree, instrument or writing in the appropriate Register of Sasines have completed his title to such land, lease or heritable security by recording the same in such register : Provided always, in the case of sequestrations awarded under the Bankruptcy (Scotland) Act, 1856, that the provisions of this section shall not apply to any deed, decree, instrument or writing dated within five years after the commencement of this Act.
- (5) The provisions of this section shall not affect the ranking of adjudgers inter se, or any real right obtained in virtue of a decree of adjudication, or in virtue of a decree pronounced in an action creating litigiousity, or by a trustee in bankruptcy, if such right

has been completed by the recording in the appropriate Register of Sasines of any deed, decree, abbreviate, or instrument necessary to effect the completion of such right.

- (6) Section one hundred and fifty-nine of the Titles to Land Consolidation (Scotland) Act, 1868, and sections sixteen and seventeen of the Land Registers (Scotland) Act, 1868, and section forty-four of the Bankruptcy (Scotland) Act, 1913, are hereby amended in accordance with this section, and section forty-two of the Conveyancing (Scotland) Act, 1874, and Schedule J thereto annexed, are hereby repealed.

#### **45 Provision for termination of perpetual trusts of moveables**

In any case where the provisions of section nine of the Trusts (Scotland) Act, 1921, would apply to any deed, and to the right of any party thereunder if such deed had been dated after the thirty-first day of July, eighteen hundred and sixty-eight, the provisions of the said section shall, from and after the passing of this Act, apply to such deed and to the right of any party thereunder notwithstanding that the same be dated on or prior to the said thirty-first day of July, eighteen hundred and sixty-eight :

Provided that, in the application of the said provisions to the deeds to which this section refers and to the right of any party thereunder, the date of such deeds shall be deemed to be the date of the passing of this Act.

#### **46 Extract decree of reduction to be recorded**

In the case of the reduction of a deed, decree or instrument recorded in the Register of Sasines or forming a midcouple or link of title in a title recorded in the said register there shall be recorded in the said register either an extract of the decree of reduction of such deed, decree or instrument, or a title in which such extract decree forms a midcouple or link of title, and such decree of reduction shall not be pleadable against a third party who shall in bona, fide onerously acquire right to the land, lease or heritable security contained in the deed, decree, or instrument reduced by such decree of reduction prior to an extract of such decree of reduction, or a title, in which it forms a midcouple or link of title, being recorded in the Register of Sasines.

#### **47 Re-recording of deeds relative to leasehold subjects**

Where in terms of the Registration of Leases (Scotland) Act, 1857, or of section twenty-four of this Act, any deed or extract shall have been recorded in the appropriate Register of Sasines, and where in terms of that Act or of the said section any such deed or extract shall fall to be recorded again, or where any extract from a competent register of any deed the principal of which has already been recorded in the appropriate Register of Sasines falls to be so recorded, it shall not be necessary for the keeper of - the Register of Sasines in which such deed or extract falls to be recorded, or in which such extract of any recorded deed falls to be recorded, to engross such deed or extract in the register at length, but the keeper of such Register of Sasines may in place of such engrossment enter in the register a short memorandum specifying the deed or extract and the book and folio in which the same is already engrossed, and in the case of an extract of a deed the principal of which has already been recorded in the appropriate Register of Sasines the book and folio in which the principal is already engrossed, and such memorandum shall have the same effect as if the deed or extract were engrossed in the register at length in place of such memorandum.

**48 Duplicate plans may be retained with Register**

Where any writ which refers to a plan signed as relative thereto is presented or transmitted by post for registration in the General Register of Sasines it shall be competent to ingive to the said register along therewith a duplicate of such plan, docketed with reference to the said writ and authenticated in the same manner as the principal plan, and such duplicate plan shall be retained in the said register. The ingiving of such duplicate plan shall be noted in the register, and acknowledgment of the receipt thereof shall be marked by the keeper of the register on the plan signed as relative to the writ.

Along with each register volume transmitted to the Keeper of the Records for custody there shall be sent the duplicate plans, if any, relative to any of the writs engrossed in such volume. Such duplicate plans when transmitted to the Keeper of the Records shall remain in his custody, subject to the same rights on the part of the public to have access thereto as apply to the Record Volumes.

**49 Saving clause**

- (1) Nothing in this Act contained shall affect, any action now in dependence or that shall be instituted before the commencement of this Act, or shall prevent the constitution, transmission, completion, or extinction of land rights or securities affecting land in the forms which were in use for these purposes prior to the passing of this Act, except in so far as such prior forms are hereby expressly repealed.
- (2) Nothing in this Act contained shall affect the preparation of the printed minutes and printed indexes of persons and places applicable to each county in Scotland, and the Keeper of the General Register of Sasines shall supply as full information in the printed minute books as hitherto according to the existing law and practice.

## SCHEDULES.

### SCHEDULE A

#### FORM No. 1. CLAUSE OF DEDUCTION OF TITLE IN A DISPOSITION OF LAND WHERE THE GRANTEE IS NOT INFECT.

Section 3.

[To be inserted immediately after the clause specifying the date or term of entry or after the dispositive clause where no date or term of entry is specified.]

Which lands and others (*or subjects*) were last vested [*or are part of the lands and others (or subjects) last vested*] in *A.B.*, (*designation of person last infected*), whose title thereto is recorded in (*specify Register of Sasines and date of recording, or if the last infection has already been mentioned say in the said A.B. as aforesaid*), and from whom I acquired right by (*here specify shortly the writ or series of writs by which right was so acquired*).

#### NOTE TO FORM NO. 1 OF SCHEDULE A.

If any conditions, reservations, provisions, obligations, servitudes or other burdens which affect the land or any part thereof or qualify the grantee's right thereto be contained in or imposed by the writ or any of the writs by which the grantee acquired right and are proper to be inserted, insert the same at length in the dispositive clause, and if they affect only part of the land specify the part or parts of the land affected thereby, and in case of money burdens specify the amounts thereof and the name and designation or designative description of the creditor therein, all as in the writ containing or imposing such money burdens, and in all cases specify the writ or writs containing or imposing such conditions and others.

#### FORM No. 2. CLAUSE TRANSMITTING PERSONAL OBLIGATION IN A HERITABLE SECURITY IN A DISPOSITION OF LAND.

Section 15.

I, *A.B. (designation)*, in consideration of (*specify any part of price paid in money*) and in consideration also of *C.D. (designation)* undertaking as by his signature hereto he undertakes the personal obligation contained in a bond and disposition in security for the sum of (*insert amount*) granted by me [*or by E.F. (original debtor)*] in favour of *G.H. (original creditor)*, dated (*insert date*), and recorded in (*specify Register of Sasines and date of recording*) do hereby dispoise, &c.

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

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## SCHEDULE B

FORM No. 1. ON BEHALF OF A PERSON WHO HAS RIGHT TO LAND BY A TITLE WHICH HAS NOT BEEN RECORDED IN THE APPROPRIATE REGISTER OF SASINES AND WHICH IS NOT TO BE RECORDED ALONG WITH THE NOTICE OF TITLE.

Section 4 (1).

Be it known that *A.B. (designation)* has right as proprietor (or life-renter or proprietor in trust or otherwise, as the case may be) to all and whole [here describe the land or refer to description thereof as in Schedule D. to this Act or as in Schedule G. to the Titles to Land Consolidation (Scotland) Act, 1868; and if there are any conditions, reservations, provisions, obligations, servitudes, or other burdens which affect the land or any part thereof and have entered the record and are proper to be inserted or referred to, here insert the same at length or refer thereto as in Schedule H. to the Conveyancing (Scotland) Act, 1874, and if any such conditions and others which affect the land or any part thereof or qualify *A.B.*'s right thereto be contained in or imposed by the writ or any of the writs by which *A.B.* acquired right and are proper to be inserted, here insert the same at length, and if they affect only part of the land specify the part or parts of the land affected thereby, and in case of money burdens specify the amount thereof and the name and designation or designative description of the creditor therein all as in the writ containing or imposing such money burdens, and in all cases specify the writ or writs containing or imposing such conditions and others]; Which lands and others (or subjects) were last vested [or are part of the lands and others (or subjects) last vested] in *C.D. (design person last infeft)*, whose title thereto was recorded in (specify Register of Sasines and date of recording, or if the last infeftment has already been mentioned say in the said *C.D.* as aforesaid), and from whom the said *A.B.* acquired right by (here specify shortly the writ or series of writs by which he acquired right); Which last recorded title and subsequent writ (or writs) have been presented to me, *Y.Z. (designation)*, Notary Public, (or Law Agent).

[To be attested.]

*Y.Z.*

FORM No. 2. ON BEHALF OF A PERSON WHO HAS RIGHT TO LAND CONVEYED BY AN UNRECORDED SPECIAL CONVEYANCE WHICH IS TO BE RECORDED ALONG "WITH THE NOTICE OF TITLE.

Section 4 (2).

Be it known that *A.B. (designation)* has right as proprietor (or life-renter or proprietor in trust or otherwise, as the case may be) to all and whole the lands and others (or subjects) disposed by (or



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contained in) the disposition (or feu charter or other special conveyance) granted by *C.D.* (designation) in favour of *E.F.* (designation) dated (insert date), and recorded in (specify Register of Sasines) of even date herewith [if any conditions, reservations, provisions, obligations, servitudes or other burdens affecting the land or any part thereof or qualifying *A.B.*'s right thereto be contained in or imposed by the writ or any of the writs by which *A.B.* acquired right other than such special conveyance and are proper to be inserted, here insert the same at length, and if they affect only part of the land specify the part or parts of the land affected thereby, and in case of money burdens specify the amount thereof and the name and designation or designative description of the creditor therein, all as in the writ containing or imposing such money burdens, and in all cases specify the writ or writs containing or imposing such conditions and others]; To which lands and others (or subjects) the said *A.B.* acquired right by the foresaid disposition (or as the case may be) and by (here specify shortly the subsequent writ or series of writs by which he acquired right); Which disposition and subsequent writ (or writs) have been presented to me (as in Form No. 1 of this Schedule).

[To be attested.]

FORM No. 3.ON BEHALF OF A PERSON WHO HAS RIGHT TO A RECORDED HERITABLE SECURITY BY A TITLE WHICH HAS NOT BEEN RECORDED IN THE APPROPRIATE REGISTER OF SASINES AND WHICH IS NOT TO BE RECORDED ALONG WITH THE NOTICE OF TITLE.

Section 4 (3).

Be it known that *A.B.* (designation) has right (adding if such be the case to the extent aftermentioned) to a bond and disposition in security (or as the case may be) for the sum of (insert amount) granted by *C.D.* (design original debtor) in favour of *E.F.* (design original creditor), dated (insert date) and recorded in [specify Register of Sasines and date of recording : adding, if necessary, but only to the extent of (insert sum) of principal]; Which bond and disposition in security was last vested in the said *E.F.* as aforesaid [or if *E.F.* is not the person last infeft therein, or holding the last recorded title thereto, say Which bond and disposition in security (adding, if necessary, to the extent foresaid or as the case may be) was last vested in *G.H.* (design person holding the last recorded title thereto), whose title thereto was recorded in said Register of Sasines (or as the case may be, and give date of recording)], and from whom the said *A.B.* acquired right (adding, if necessary, to the extent foresaid, or as the case may be), by (here specify shortly the writ or series of writs by which he acquired right); Which last recorded title and subsequent writ (or writs) have been presented to me (as in Form No. 1 of this Schedule).

[To be attested.]

FORM No. 4.ON BEHALF OF A PERSON WHO HAS RIGHT TO A GROUND ANNUAL WHICH HAS APPEARED IN THE APPROPRIATE REGISTER OF SASINES BY A TITLE WHICH HAS NOT BEEN RECORDED THEREIN, AND WHICH IS NOT TO BE RECORDED ALONG WITH THE NOTICE OF TITLE.

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## Section 4 (3).

Be it known that *A.B. (designation)* has right (*adding if such be the case to the extent aftermentioned*) to the ground annual of (*insert amount*) exigible yearly at (*state term or date of payment*) in each year [*or in equal portions half-yearly at (state terms or dates of payment) in each year or otherwise as the case may be ; and if there be any duplications or other casual payments add, with duplication every nineteenth year, or otherwise as the case may be, from and after (state the term or date from which the current duplication or other casual payment is running)*] constituted by a contract of ground annual (*or other deed by which the ground annual was constituted, giving the names and designations of the parties thereto or of the grantor and grantee*) recorded in [*specify Register of Sasines and date of recording ; and if any duplications or other casual payments have been redeemed and commuted into an additional annual payment say* and also to the additional ground annual of (*insert sum*) exigible at the same term (*or date*) in each year (*or as the case may be*) in lieu and commutation of casual payments; *adding if necessary but only to the extent of (insert sum or respective sums)*] payable out of All and Whole (*here describe the land or refer to description thereof as in Schedule D to this Act or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*); Which ground annual was (*or which ground annual and others were*) last vested (*adding if necessary to the extent foresaid or as the case may be*) in *C.D. (design person having the only or last recorded title)*, whose title thereto was recorded in (*specify Register of Sasines and date of recording ; or if the only or last recorded title has already been mentioned say in the said C.D. as aforesaid*), and from whom the said *A.B.* acquired right (*adding if necessary to the extent foresaid or as the case may be*) by (*here specify shortly the writ or series of writs by which he acquired right*); Which last recorded title and subsequent writ (*or writs*) have been presented to me (*as in Form No. 1 of this Schedule*).

[To be attested.]

FORM No. 5. ON BEHALF OF A PERSON WHO HAS RIGHT TO AN UNRECORDED HERITABLE SECURITY WHICH IS TO BE RECORDED ALONG WITH THE NOTICE OF TITLE.

## Section 4 (4).

Be it known that *A.B. (designation)* has right (*adding if such be the case to the extent aftermentioned*) to a bond and disposition in security (*or as the case may be*) for the sum of (*insert amount*)

granted by *C.D. (designation)* in favour of *E.F. (designation)* dated (*insert date*), and recorded in (*specify Register of Sasines*) of even date herewith [*adding if necessary but only to the extent of (insert sum) of principal*]; To which bond and disposition in security (*adding if necessary to the extent foresaid or as the case may be*) the said *A.B.* acquired right by (*here specify shortly the writ or series of writs by which he acquired right*); Which bond and disposition in Security (*or as the case may be*) and subsequent writ (*or writs*) have been presented to me (*as in Form No. 1 of this Schedule*).

[To be attested.]

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FORM No. 6. ON BEHALF OF A PERSON WHO HAS RIGHT TO A GROUND ANNUAL CONSTITUTED BY A DEED THE RECORDING OF WHICH IN THE APPROPRIATE REGISTER OF SASINES ON BEHALF OF THE ORIGINAL CREDITOR WOULD HAVE INFECT HIM THEREIN AND IN THE LANDS OUT OF WHICH IT IS PAYABLE, OR EITHER, BUT WHICH HAS NOT BEEN SO RECORDED, AND WHICH IS TO BE RECORDED ALONG WITH THE NOTICE OF TITLE.

Section 4 (4),

Be it known that *A.B. (designation)* has right (*adding if such be the case to the extent aftermentioned*) to a ground annual of (*insert amount, and if there be any duplications or other casual payments add with duplication every nineteenth year, or as the case may be*) payable under a contract of ground annual (*or other deed by which the ground annual was constituted, giving the names and designations of the parties thereto or of the grantor and grantee*) dated (*insert date*), and recorded in (*specify Register of Sasines*) of even date herewith, [*adding, if necessary, but only to the extent of (insert sum or respective sums)*]; To which ground annual (*adding, if necessary, to the extent foresaid or as the case may be*) the said *A.B.* acquired right by the foresaid contract of ground annual (*or as the case may be*) and by (*here specify shortly the writ or series of writs by which he acquired right*); Which contract of ground annual (*or as the case may be*) and subsequent writ (*or writs*) have been presented to me (*as in Form No. 1 of this Schedule*).

[To be attested.]

#### NOTES TO SCHEDULE B.

NOTE 1.—Where the description in the last infektment is a particular description, the description in Form No. 1 of this Schedule should be by reference thereto, unless there is reason to the contrary. Sections 4(2) (4), 24 (3).

NOTE 2.—In adapting Form No. 2 of this Schedule to the case of a person who has right to only a part of the land contained in an unrecorded conveyance, deed, or decree there shall be inserted immediately before the words “all and whole” a

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description of such part of the land, and the form may then proceed *which lands and others (or subjects) are part of.*

NOTE 3.—If the original infektment upon a bond and disposition in security or other heritable security including a ground annual has been taken otherwise than by recording the same in the appropriate Register of Sasines add immediately after the mention of the date thereof *and instrument of sasine (or notarial instrument, or if such be the case and along with notice of title) thereon* (adding if such instrument or notice is not in favour of the original creditor the name and designation of the person in whose favour it is conceived) *recorded in* (specify Register of Sasines and date of recording).

NOTE 4.—In adapting Forms Nos. 3 and 5 of this Schedule to real burdens for capital sums, there shall be substituted for the specification of the bond and disposition in security the following : *A real burden for the sum of (insert amount) payable to E.F. (designation) in terms of (specify the disposition or other deed under which the real burden was reserved or constituted, giving the names and designations of the granter and grantee, or of the parties thereto), dated (insert date) and recorded in (specify Register of Sasines and date of recording); and in specifying the writs by which A.B. acquired right to such real burden there shall in Form No. 5 be mentioned as the first of such writs the said disposition (or other deed as above), and the same shall along with the other writ or writs be presented to the Agent expediting the notice of title.*

NOTE 5.—In adapting Forms 2 and 5 of this Schedule to the case where the notice of title proceeds upon an unrecorded disposition, or an unrecorded bond and disposition in security, with an assignation or a series of assignations endorsed thereon in terms of section 7 of this Act, the same may be referred to in such notice of title as follows :—*a disposition [or a bond and disposition in security for the sum of (insert amount)] granted by C.D. (designation) in favour of E.F. (designation) dated (insert date) and along with an assignation endorsed thereon (or a series of assignations endorsed thereon the last of which is) in favour of G.H. (designation) recorded in (specify Register of Sasines) of even date herewith. In the clause specifying the writ or writs by which right was acquired by the person on whose behalf the notice of title is expedite, the endorsed assignation or assignations need not be detailed, but may be referred to as the said assignation (or assignations) endorsed thereon.*

NOTE 6.—Where in place of the principal titles or writs on which any notice of title bears to proceed there are presented to the agent expediting such notice extracts or office copies thereof, the statement in the notice as to the presentation of such titles or writs may be varied accordingly ; but it shall be no objection to any notice of title that it states that the principal titles or

writs were so presented although there were presented only extracts or office copies of such titles or writs.

NOTE 7.—Where a deed, decree or heritable security is to be recorded along with a notice of title it should be docqueted as follows:—*Docqueted with reference to notice of title in favour of A.B. recorded of even date herewith.*

*Y.Z. (designation),  
Agent.*

## SCHEDULE C

### FORM No. 1. ASSIGNATION OF AN UNRECORDED DISPOSITION.

Sections 7, 24.

I, *A.B., (designation)* in consideration of the sum of *(insert sum)* paid to me by *C.D. (designation)* assign to the said *C.D.* the foregoing Disposition; With entry at *(specify term or date of entry)*; And I grant warrandice.

[To be attested.]

### FORM No. 2. ASSIGNATION OF AN UNRECORDED BOND AND DISPOSITION IN SECURITY.

Section 7.

I, *A.B., (designation)* in consideration of the sum of *(insert sum)* paid to me by *C.D. (designation)* assign to the said *C.D.* the foregoing Bond and Disposition in Security; With interest from *(specify date)*.

[To be attested.]

### NOTES TO SCHEDULE C.

NOTE 1.—If an assignation in terms of Forms Nos. 1 or 2 of this Schedule is not granted by the grantee of the deed thereby assigned, or by the grantee of the immediately preceding assignation endorsed thereon, add *To which disposition (or bond and disposition in security) I acquired right by* (here specify the writ or series of writs by which the granter acquired right from such grantee).

NOTE 2.—In adapting the above Forms to the case where an assignation is not endorsed on the deed assigned, substitute for the words *the foregoing disposition (or the foregoing bond and disposition in security)* the words *a disposition [or a bond and disposition in security for the sum of (insert amount)] granted by E.F. (designation) in my favour dated (insert date) [or in favour of*

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*G.H. (designation) dated (insert date) along with assignation endorsed thereon (or a series of assignations endorsed thereon the last of which is) in my favour; or along with assignation endorsed thereon (or a series of assignations endorsed thereon the last of which is) in favour of J.K. (designation) from whom I acquired right by (here specify the writ or series of writs by which the right was acquired)]. If recorded along with such separate assignation such disposition (or bond and disposition in security) and any separate assignation or assignations thereof other than the assignation last in date shall be docquetted as follows :*

*Docquetted with reference to Assignation in favour of C.D. recorded of even date herewith.*

*Y.Z. (designation),  
Agent.*

#### SCHEDULE D

#### CLAUSE OF REFERENCE TO A DESCRIPTION OF LAND CONTAINED IN A PRIOR CONVEYANCE, DEED, OR INSTRUMENT.

Section 8.

All and whole the lands and others (or subjects) in the county of \_\_\_\_\_ (or in the burgh of \_\_\_\_\_ and county of \_\_\_\_\_ as the case may be) described in (refer to the conveyance, deed, or instrument in such terms as shall be sufficient to identify it, and specify the Register of Sasines in which it is recorded and date of recording, or where the conveyance, deed, or instrument referred to is recorded on the same date as the conveyance, deed, or instrument containing the reference substitute for the date of recording the words of even date with the recording of these presents) :—

#### NOTES TO SCHEDULE D.

NOTE 1.—In referring to a Deed containing a particular description it shall be sufficient to give the names of the grantor and grantee or of the parties thereto without adding their designations, and when there are several granters or grantees or several parties acting in the same category it shall be sufficient to give the name of the first mentioned person only with the addition of the words *and others*; and where the grantor or granters or grantee or grantees, or the parties or one of the parties thereto acts or act in a fiduciary capacity it shall be sufficient to state such capacity without giving their individual name or names, *e.g.* :

(a) *Feu Charter granted by A.B. in favour of C.D., dated (insert date) and recorded in (specify Register of Sasines and give date of recording).*

- (b) *Disposition granted by C.D. and others in favour of E.F. and others, dated, &c. (as above).*
- (c) *Notarial Instrument (or Notice of title) in favour of the Trustee (or Trustees) of G.H. (or the Judicial Factor of J.K. or the Trustee on the Sequestrated Estates of L.M. or the Liquidator of the N.O. Company, Limited, or as the case may be) recorded in (specify Register of Sasines and date of recording).*

NOTE 2.—Where it is desired to insert a short description of the land or subjects, this may be done as follows :—*All and whole that dwelling-house, number ten, Rosebery Crescent, Edinburgh, (or the eastmost half-flat on the second storey of the tenement entering from number fifteen, Lothian Street, Edinburgh, or otherwise, as the case may be) in the county of Edinburgh, described in, &c. (as above).*

NOTE 3.—If part only of the land or subjects described in a former recorded conveyance, deed, instrument, or notice of title is being conveyed or otherwise dealt with for the first time as a separate subject, such part should be described at length, adding *being part of the lands and others (or subjects) in the county of* or *in the burgh of* and *county of* described in, &c. (as above); or thus : *All and Whole the lands and others (or subjects) in the county of* or *in the burgh of* and *county of* described in, &c. (as above), *with the exception of* (describe the part excepted).

NOTE 4.—If several lands or subjects are described in the conveyance, deed, or instrument referred to, and it is intended to specify one or more of them, these may be distinguished from the others thus : *All and Whole the lands and others (or subjects) first (or second and third) described in, &c. (as above, or otherwise, as the case may be).*

## SCHEDULE E

### DEED OF ACKNOWLEDGMENT OF OMITTED CONDITIONS.

Section 9.

I, *A.B. (designation)*, hereby acknowledge that in my title to the lands after referred to, namely (*specify it*), there was an omission or failure to repeat or refer to the following conditions (*or clauses; repeat or refer to them*), and which conditions (*or clauses*) affect the lands in the county of (*or in the burgh of* and *county of*), described at length (*or by reference*) in the said (*specify the title or writing*); And the said conditions (*or clauses*) are accordingly now referred to in terms of the Conveyancing (Scotland) Act, 1924.

[To be attested.]

## SCHEDULE F

## WARRANTS OF REGISTRATION.

Section 10.

Register on behalf of the within named A.B. [*or on behalf of A.B. (designation)*] in the Register of the County of G. [(*or in the Registers of the Counties of G.H. and J*); *or in the Register of the Burgh of K.*; *or in the Registers of the Burghs of K.L. and M.*; *or in the Registers of the County of G. (or the Counties of G.H. and J.) and the Burgh of K. (or the Burghs of K.L. and M.)*].

A.B.  
or C.D., W.S. Edinburgh, agent.  
or E. & F., W.S. Edinburgh, agents.  
(*or as the case may be*).

## NOTES TO SCHEDULE F.

NOTE 1.—In the case of a Warrant of Registration written on a deed which is to be recorded in the Register of Sasines in terms of a clause of direction, add after the first word “ Register ” the words *in terms of the clause of direction herein contained*.

NOTE 2.—In the case of a Warrant of Registration written on a deed which is to be recorded in the General Register of Sasines for preservation (or for preservation and execution) insert the words *for preservation (or for preservation and execution) as well as for publication*.

NOTE 3.—When the right of the person or persons on whose behalf a deed is to be recorded is a fiduciary one the name or names of the Trustee or other person or persons acting in a fiduciary capacity shall be inserted in the Warrant of Registration written on such deed, and may be followed by a short reference to the capacity in which he or they act, *e.g., as Trustee (or Trustees or as the case may be) within mentioned*, or, if desired, a fuller reference to such capacity may be given.

NOTE 4.—When a disposition or bond and disposition in security or other deed, decree or heritable security is to be recorded along with an assignation (or assignations) endorsed thereon, add at the end of the Warrant of Registration the words *along with the assignation (or assignations) endorsed hereon*.

NOTE 5.—When a disposition or bond and disposition in security or other deed, decree or heritable security (with the assignation or assignations, if any, endorsed thereon) is to be recorded along with a separate assignation or separate assignations, or along with a notice of title, add at the end of the

Warrant of Registration on such separate assignation or on the last in date of such separate assignations or on such notice of title, the words *along with the disposition [or bond and disposition in security, or as the case may be; adding, if required, and assignation (or assignations)] docquetted with reference hereto*.



## SCHEDULE G

### MINUTE OF CONSOLIDATION.

Section 11.

I, *A.B.*, designed in the foregoing disposition, proprietor both of the superiority and of the property (or of the mid-superiority) of the lands described in the foregoing disposition, hereby consolidate the property of the said lands (or the mid-superiority of the said lands) with the superiority thereof.

[To be attested.]

## SCHEDULE H

### MEMORANDUM OF ALLOCATION OF FEU DUTY NOT ENDORSED ON A DEED.

Sections 13, 25.

I, *A.B. (designation)*, immediate lawful superior of the lands and others (or subjects) after-mentioned [with consent of *C.D. (designation)*, heritable creditor under a bond and disposition in security, granted by me in his favour (or as the case may be) for the sum of (*insert amount*), dated (*insert date*) and recorded in (*specify Register of Sasines and date of recording*)] hereby allocate the original feu-duty of (*specify amount*) and duplicand thereof [or additional feu-duty of (*specify amount*)] payable under the feu charter granted by me (or as the case may be) in favour of *E.F. (designation)*, dated (*insert date*), and recorded in (*specify Register of Sasines and date of recording*) upon the following portions of the lands and others (or subjects) thereby disposed, namely (first) a feu-duty of £                      with £                      of augmentation, making a total of £                      and duplicand thereof (or as the case may be) on all and whole (*describe or refer to a particular description*) and (second) a feu-duty of (*as above*) on all and whole (*describe or refer to a particular description*).

[To be attested.]

## SCHEDULE I

### DOCQUET WHERE GRANTEE OF DEED IS BLIND OR CANNOT WRITE.

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Section 18.

Read over to, and signed by me for, and by authority of the above-named *A.B.* (*without designation*) who declares that he is blind (*or is unable to write*), all in his presence, and in presence of the witnesses hereto subscribing

*C.D.*, law agent (*or notary public*) Edinburgh (*or as the case may be*)

*or E.F.*, justice of the peace for the county of

*or G.H.*, minister (*or assistant and successor to the minister*) of the parish of

*M.N.*, witness.

*P.Q.*, witness.

NOTE.—The above docquet shall be written on the last page of the deed, instrument or writing, and signed by the law agent or notary public or other person authorised to sign the same in the manner indicated in the form, and such law agent or notary public or other person shall not require also to sign above the docquet at the end of such deed, instrument or writing, and the prior pages thereof (if any) shall be authenticated in the usual manner by such law agent or notary public or other person adhibiting his own signature thereto. The witnesses to the signatures of such law agent or notary public or other person shall subscribe as indicated in the form, and may be designed in the testing clause of such deed, instrument or writing; but if there be no testing clause thereto, the designations of the witnesses may be added after their respective signatures, and if desired a specification of the place and date of signing may be added to the docquet.

## SCHEDULE J

### REGISTRABLE LEASES.

Section 24.

A lease (*or tack*) granted by *E.F.* (*designation*) in my favour [*or in favour of G.H.* (*designation*) *or as the case may be*] of the subjects therein described lying in the county of (*or burgh of* ) and county of (*or burgh of* ) dated (*insert date*) and recorded in (*specify Register of Sasines and date of recording*).

#### NOTES TO SCHEDULE J.

NOTE 1.—If the recording of a lease in the appropriate Register of Sasines has been effected by a successor of the original lessee, add immediately after the mention of the date thereof *and along with notarial instrument (or notice of title) thereon in favour of* (giving the name and designation of the person in whose favour it is conceived) *recorded in* (specify Register of Sasines and date of recording).

NOTE 2.—Where any deed authorised by this Act relates to part only of the subjects contained in a lease add *but in so far only as regards the following portion of the subjects leased, viz.* (here describe the portion or refer to description thereof as in Schedule D. hereto).

NOTE 3.—Where the granter of an assignation of a recorded lease or of a bond and assignation in security of a recorded lease is not the original lessee but has a recorded title insert *which lease* (adding if necessary *to the extent foresaid* or as the case may be) *is now vested in me, my title thereto being recorded in the said Register of Sasines* (or as the case may be, and give date of recording).

NOTE 4.—In an assignation or renunciation of a recorded lease the title of the granter of which assignation or renunciation is not recorded, and in a notice of title to a recorded lease, insert *which lease* (adding if necessary *to the extent foresaid* or as the case may be) *was last vested in the said G.H. as aforesaid* [or if *G.H.* is not the person having such title say *in J.K.* (design person having such title) *whose title thereto is recorded in said Register of Sasines* (or as the case may be, and give date of recording)], *and from whom I* (in the case of an assignation or renunciation) *or the said A.B.* (in the case of a notice of title) *acquired right by* (here specify shortly the writ or series of writs by which right was so acquired by the person granting the assignation or renunciation, or expeding the notice of title.)

NOTE 5.—Where a title to an unrecorded lease is being completed by notice of title under this Act the lease shall be referred to in manner above prescribed except that the Register of Sasines shall be specified, and for the date of recording of the lease there shall be substituted the words *of even date herewith.*

#### SCHEDULE K

FORM NO. 1. ASSIGNATION OF A BOND AND DISPOSITION IN SECURITY.

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Sections 3, 28, 31.

I, *A.B. (design creditor)*, in consideration of the sum of *(insert sum)*, paid to me by *C.D. (designation)*, hereby assign to the said *C.D.* a bond and disposition in security for the sum of *(insert sum)* granted by *E.F. (design original debtor)* in my favour [or in favour of *G.H. (design original creditor)*], dated *(insert date)*, and recorded in [*specify Register of Sasines and date of recording ; adding if necessary but only to the extent of (insert sum) of principal*]; With interest from *(insert date)*.

[To be attested.]

#### FORM No. 2.ASSIGNATION OF A GROUND ANNUAL.

Section 23.

I, *A.B. (design creditor)*, in consideration of the sum of *(insert sum)* paid to me by *C.D. (designation)* hereby assign to the said *C.D.* a ground annual of *(insert amount)* exigible yearly at *(state term or date of payment)* in each year [or in equal portions half-yearly at *(state terms or dates of payment)* in each year, or otherwise, as the case may be ; and if there be any duplications or other casual payments add with duplication every nineteenth year (or otherwise as the case may be) from and after *(state the term or date from which the current duplication or other casual payment is running)*] constituted by a contract of ground annual (or other deed by which the ground annual was constituted, giving the names and designations of the parties thereto, or of the grantor and grantee) recorded in [*specify Register of Sasines and date of recording ; and if any duplications or other casual payments have been redeemed and commuted into an additional annual payment say, and also the additional ground annual of (insert sum) exigible at the same term (or date) in each year (or as the case may be) in lieu and commutation of casual payments ; adding, if necessary, but only to the extent of (insert sum or respective sums)*] payable out of all and whole (*here describe the land or refer to description thereof as in Schedule D to this Act or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*); With right to the said ground annual (or ground annual and others) from and after *(insert date)*.

[To be attested.]

#### FORM No. 3.DISCHARGE OF A BOND AND DISPOSITION IN SECURITY.

Sections 3, 29.

I, *A.B. (design creditor)*, in consideration of the sum of *(insert sum)* paid to me by *C.D. (designation)*, hereby discharge a bond and disposition in security for the sum of *(insert sum)* granted by the said *C.D.* [or by *E.F. (design original debtor)*] in my favour [or in favour of *G.H. (design original creditor)*] dated *(insert date)* and recorded in [*specify Register of Sasines and date of recording ; adding, if necessary, but only to the extent of (insert sum) of principal*].

[To be attested.]

#### FORM No. 4.DISCHARGE OF A GROUND ANNUAL.

Section 23

I, *A.B. (design creditor)*, in consideration of the sum of (*insert sum*) paid to me by *C.D. (designation)*, hereby discharge the ground annual of (*insert amount, and if there be any duplications or other casual payments add with duplications every nineteenth year or otherwise, as the case may be*), constituted by a contract of ground annual (*or other deed by which the ground annual was constituted, giving the names and designations of the parties thereto, or of the granter and grantee*) recorded in [*specify Register of Sasines and date of recording; and if any duplications or other casual payments have been redeemed and commuted into an additional annual payment say*] and also the additional ground annual of (*insert sum*) constituted in lieu and commutation of casual payments; *adding, if necessary, but only to the extent of (insert sum or respective sums)*] payable out of all and whole (*here describe the land or refer to description thereof as in Schedule D to this Act, or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*).

[To be attested.]

FORM No. 5. DEED OF RESTRICTION OF A BOND AND DISPOSITION IN SECURITY.

Section 30.

I, *A.B. (design creditor)*, in consideration of (*specify consideration, if any*), hereby discharge of a bond and disposition in security for the sum of (*insert sum*) granted by *C.D. (design original debtor)* in my favour [*or in favour of G.H. (design original creditor)*], dated (*insert date*) and recorded in [*specify Register of Sasines and date of recording, adding, if necessary, but only to the extent of (insert sum) of principal*], all and whole (*describe the land discharged, or refer to description thereof as in Schedule D to this Act or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*).

[To be attested.]

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FORM No. 6. COMBINED PARTIAL DISCHARGE AND DEED OF RESTRICTION OF A BOND AND DISPOSITION IN SECURITY.

Section 30.

I, *A.B. (design creditor)*, in consideration of the sum of (*insert sum*) paid to me by *C.D. (designation)*, discharge a bond and disposition in security for the sum of (*insert sum*) granted by the said *C.D.* [*or by E.F. (design original debtor)*] in my favour [*or in favour of G.H. (design original creditor)*] dated (*insert date*) and recorded in (*specify Register of Sasines and date of recording*) but only to the extent of (*insert sum*) of principal; And I discharge of the said bond and disposition in security [*adding if necessary but only to the extent of (insert sum) of principal*] ALL and WHOLE (*describe the land discharged, or refer to description thereof as in Schedule D to this Act or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*).

[To be attested.]

FORM No. 7. DEED OF RESTRICTION OF A GROUND ANNUAL.

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

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Section 23.

I, *A.B. (design creditor)*, in consideration of (*specify consideration, if any*), hereby disburden of the ground annual of (*insert amount, and if there be any duplications or other casual payments add with duplications every nineteenth year or otherwise as the case may be*) constituted by a contract of ground annual (or other deed by which the ground annual was constituted, giving the names and designations of the parties thereto, or of the grantor and grantee) recorded in [*specify Register of Sasines and date of recording; and if any duplications or other casual payments have been redeemed or commuted into an additional payment say and also*] of the additional ground annual of (*insert sum*) constituted in lieu and commutation of casual payments, *adding, if necessary*, but only to the extent of (*insert sum or respective sums*) all and whole (*here describe the land disburdened or refer to description thereof as in Schedule D to this Act, or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*); which lands are part of all and whole (*describe the lands out of which the ground annual is payable or refer to description thereof as above*) being the lands and others (or subjects) out of which the said ground annual is (or the said ground annual and others are) payable.

[To be attested.]

FORM No. 8. DECREE OF ADJUDICATION FOR A GROUND ANNUAL.

Section 23.

Having resumed consideration of the said petition (or action) finds and declares that the ground annual of (*insert amount*) payable from the lands and others (or subjects) hereinafter

described has fallen two years into arrear, and that the defender *C.D.* by his failure to pay said arrears has forfeited his right in and to the said lands and others (*or subjects*), and adjudges and declares that the said lands and others (*or subjects*), that is to say, all and whole (*here describe the land or refer to description thereof as in Schedule D to this Act, or as in Schedule G to the Titles to Land Consolidation (Scotland) Act, 1868*), now belong to the Pursuer *A.B.*, from and after the (*insert date of raising of the action or other date fixed by the Court*), together with the rents, maills, and duties of the said lands and others (*or subjects*) current and unpaid at that date, (*and if there are any conditions, reservations, provisions, obligations, servitudes, or other burdens which affect the land or any part thereof and have entered the Register of Sasines prior to the constitution of the ground annual, and which are proper to be inserted or referred to, here insert the same at length or refer thereto as in Schedule H. annexed to the Conveyancing (Scotland) Act, 1874*); and grants warrant to record an extract of this decree in the Register of Sasines.

#### NOTES TO SCHEDULE K.

NOTE 1.—If the original infektment upon a bond and disposition in security or other heritable security has been taken otherwise than by recording the same in the appropriate Register of Sasines, add immediately after the mention of the date of such bond and disposition in security or other deed *and instrument of sasine* (*or notarial instrument, or if such be the case and along with notice of title*) *thereon* (adding if such instrument or notice is not in favour of the original creditor the name and designation of the person in whose favour it is conceived) *recorded in* (specify Register of Sasines and date of recording).

NOTE 2.—Where the granter of an assignation, discharge or deed of restriction of a bond and disposition in security is not the original creditor, but has a recorded title, insert at the end of the deed *Which bond and disposition in security* (adding, if necessary, *to the extent aforesaid* or as the case may be) *is now vested in me, my title thereto being recorded in the said Register of Sasines* (or as the case may be, and give date of recording); or if such granter has not a recorded title say *was last vested in the said* (give name of original creditor) *as aforesaid* [or if he was not the person having the last recorded title, say *was last vested* (adding, if necessary, *to the extent aforesaid*, or as the case may be) *in J.K.* (design person having last recorded title) *whose title thereto was recorded in said Register of Sasines* (or as the case may be, and give date of recording)], *and from whom I acquired right* (adding, if necessary, *to the extent aforesaid* or as the case may be) *by* (here specify the writ or series of writs by which right was so acquired). In the case of an assignation, discharge or deed of restriction of a ground annual or other real burden the same course will be

Sections 3,  
28, 29, 30, 31.





Section 32.

I, *A.B. (designation)*, notary public (or law agent), hereby certify that *C.D. (designation)*, proprietor (or as the case may be), of the lands and others (or subjects) contained in the bond and disposition in security (or other heritable security) aftermentioned [or that *X.Y. (designation)*, the debtor in the bond and disposition in security (or other heritable security) aftermentioned] represented to me that on the (*insert date*) he caused to be consigned in the (*specify bank or branch of bank in which the money was consigned*) the sum of (*insert amount consigned*) being the cumulo amount (or the balance) of the principal sum, interest and expenses (or as the case may be) due (or remaining due) under the said bond and disposition in security (or other heritable security) conform to deposit receipt dated (*insert date*) by the said bank for said amount in the name of *E.F. (designation)*, the creditor in (or now in right of) the said bond and disposition in security (or other heritable security) [if he is only a partial creditor say to the extent of (*insert amount*)], which consignation was made in virtue of the power of redemption reserved in the bond and disposition in security for the sum of (*insert amount*) granted by the said *C.D.* [or by *G.H. (design original debtor)*] in favour of the said *E.F.* [or in favour of *J.K. (design original creditor)*] dated (*insert date*) and [adding if such be the case instrument of sasine or notarial instrument (or along with notice of title) thereon and if such instrument or notice is not in favour of the original creditor specifying the name and designation of the person in whose favour it is conceived] recorded in (*specify Register of Sasines and date of recording*); [If *E.F.* is not the original creditor but has a recorded title insert Which bond and disposition in security (adding if necessary to the extent aforesaid or as the case may be) is now vested in the said *E.F.* (or other person holding the last recorded title giving his name and designation) whose title thereto is recorded in the said Register of Sasines (or as the case may be, and give date of recording), and if *E.F.* is the successor of the person having such last recorded title specify *E.F.*'s right as successor to him]; And I further certify that such consignation was rendered necessary by the refusal of the said *E.F.* to receive the sum so consigned [or by the refusal (or incapacity) of the said *E.F.* to grant a valid discharge of the said bond and disposition in security (or other heritable security) or by the absence (or death) of the said *E.F.* or as the case may be, stating the reason why a valid discharge could not be obtained] notwithstanding that the requisite premonition was duly given, and that the said deposit receipt for the sum so consigned was presented to me.

*A.B.*

[To be attested.]

SCHEDULE M

NOTICE CALLING UP BOND

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

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Section 33.

To *A.B.* (*insert name and last known address of person to whom notice is given*).

Take notice that *C.D.* (*name creditor*) requires payment of the principal sum of (*insert sum*) with interest thereon at the rate of            per centum per annum from the            day of            due under a Bond and Disposition in Security by you [*or by E.F. (original debtor)*] in favour of the said *C.D.* [*or of G.H. (original creditor)*] of which the said *C.D.* is now in right], dated (*insert date*) and recorded in (*specify Register of Sasines, and date of recording*): And that failing full payment of the said principal sum, interest and expenses within three months after this demand the lands and others (*or subjects*) held in security may be sold.

Dated this            day of            (*date of giving notice personally or of posting same*).

(*To be signed by the creditor, or by his Agent, who will add his designation and the words Agent of the said C.D.*)

FORM No. 2.

Sections 34, 35.

I, *A.B.* above named, hereby acknowledge receipt of the foregoing notice (*or of the notice of which the foregoing is a copy*), and I agree to the period of notice being dispensed with (*or shortened to*            ). Dated this            day of            .

FORM No. 3.

Section 34.

Notice of which the foregoing is a copy was posted (*or otherwise, as the case may be*) to *A.B.* above named on the day of            .

(*To be signed by the creditor, or by his Agent, who will add his designation and the words agent of the said C.D., and if posted the postal receipt to be attached.*)

## SCHEDULE N

CERTIFICATE AS TO SURPLUS (IF ANY), OR NO SURPLUS, WHERE LAND IS SOLD UNDER A HERITABLE SECURITY.

Section 42.

I, *A.B. (insert designation)*, notary public (or law agent) with reference to the sale of the lands and others (or subjects) contained in the bond and disposition in security (or other heritable security) aftermentioned, which sale took place at (*insert place*) upon the (*insert date*) at the instance of *C.D. (insert designation)* in virtue of the power of sale contained in a bond and disposition in security (or other heritable security) for the sum of (*insert amount*) granted by *E.F. (design original debtor)* in favour of the said *C.D.* [or in favour of *G.H. (design original creditor)*] dated (*insert date*) and [adding if such be the case instrument of sasine or notarial instrument (or along with notice of title) thereon, and if such instrument or notice is not in favour of the original creditor, specify the name and designation of the person in whose favour it is conceived] recorded in [specify Register of Sasines, and date of recording; adding if such be the case To which bond and disposition in security (or other heritable security), adding if necessary to the extent of (*insert amount*), the said *C.D.* acquired right by succession (or transmission or as the case may be)], Do hereby certify that there has been submitted to me a statement of the intromissions of the said *C.D.*, with the price of said land subscribed by the said *C.D.* [or by *J.K. (insert designation)* agent of the said *C.D.* on his behalf] from which it appears that no surplus remains for consignation in terms of section 122 of the Titles to Land Consolidation (Scotland) Act, 1868 [or where such surplus remains say from which it appears that a surplus of (*insert amount*) remains for consignation in terms of section 122 of the Titles to Land Consolidation (Scotland) Act, 1868, and I further certify that such surplus has been so consigned in (*specify bank or branch of bank in which the money was consigned*) conform to deposit receipt dated (*insert date*) by said bank for said amount in the joint names of the said *C.D.* and of *L.M. (insert designation of the purchaser of said land)*, which deposit receipt has been presented to me].

*A.B.*

[To be attested.]