



Conveyancing (Scotland) Act 1924

1924 CHAPTER 27

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 discharged 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 discharged by such deed of restriction, which land thereby discharged 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 discharged 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.