



# Long Leases (Scotland) Act 1954

## 1954 CHAPTER 49

An Act to enable lessees and sub-lessees occupying residential property in Scotland under certain long leases to obtain a feu right of such property on certain conditions; to extend and amend the Registration of Leases (Scotland) Act, 1857; and for purposes connected with the matters aforesaid. [30th July, 1954]

BE IT ENACTED by the Queen'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:—

### PART I

#### GRANT OF FEU RIGHT OF PROPERTY LET UNDER CERTAIN LONG LEASES

##### *General provisions relating to grant of feu right*

- 1 Lessee or sub-lessee under certain long leases may require landlord to grant feu right**
- (1) Subject to the (provisions of this Part of this Act, where any property is let under a lease granted before the tenth day of August, nineteen hundred and fourteen, for a period of not less than fifty years, and such property or a part thereof is occupied as a private dwelling-house forming his usual residence by the lessee under such lease or by the sub-lessee under a sublease granted for a period of not less than fifty years, such lessee or sub-lessee so occupying (hereafter in this Part of this Act referred to as the " occupying lessee ") may give notice to the landlord under the lease requiring him to grant a feu right of the property or, where the occupying lessee is so occupying a part only of the property, of such part.
  - (2) Any notice under this section shall be given within five years after the commencement of this Act.

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*Status: This is the original version (as it was originally enacted).*

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(3) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—

" landlord " means any person for the time being holding the interest of landlord under a lease ;

" lease " means such a lease as is mentioned in subsection (1) of this section and does not include a sub-lease;

" lessee " means any person for the time being holding the interest of lessee under a lease ;

" sub-lease " means such a sub-lease as is mentioned in subsection (1) of this section of the property let under a lease or of a part of such property ; and

" sub-lessee " means any person for the time being holding the interest of lessee under a sub-lease.

(4) For the purposes of this Part of this Act,—

(a) where a lease or a sub-lease has been assigned by *ex facie* absolute assignation, the person for the time being having the right of reversion in such lease or sub-lease shall be deemed to hold the interest of lessee thereunder;

(b) any garden, yard, garage, outhouse or pertinent belonging to and occupied along with any dwelling-house shall be deemed to form part of such dwelling-house ;

(c) a dwelling-house shall be deemed to be occupied as a private dwelling-house notwithstanding that a part thereof is used as a shop or office or for business, trade or professional purposes other than the sale of excise-able liquor for consumption on the premises.

## **2 Lessee or sub-lessee deemed to be occupying lessee in certain circumstances**

Where any property let under a lease or a sublease is occupied in whole or in part by any person as a private dwelling-house forming his usual residence and—

(a) the interest of lessee under such lease or sub-lease is held by the trustees of a trust in which the said person is beneficially interested ; or

(b) the said interest is held by the trustees of any religious denomination and the said person occupies the property or such part thereof by virtue of his office as a minister or full-time lay missionary of that denomination ; or

(c) the said interest is held by a person who acquired it by inheritance and the person so occupying the property or such part thereof is a member of the family of the lessee or sub-lessee from whom the said interest was so acquired and was residing with him in the property or such part thereof at the time of his death ;

the trustees or the person who acquired the said interest by inheritance, as the case may be, shall, for the purposes of this Part of this Act, be deemed to occupy the property or such part thereof as a private dwelling-house forming their usual residence and to be the occupying lessee.

## **3 Occupying lessee acquiring right on or after 10th May, 1951, not entitled to require grant of feu right**

An occupying lessee under any lease or sub-lease who acquired his interest thereunder, otherwise than by inheritance, on or after the tenth day of May, nineteen hundred and

fifty-one, shall not be entitled under this Part of this Act to require the grant of a feu right of any subjects let under such lease or sublease.

#### **4 Refusal of grant of feu right on ground of public interest**

- (1) Where the interest of landlord under a lease belongs to or is held for the purposes of a Government department and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, then if the Minister or Board in charge of any Government department certifies that it is not in the public interest that a feu right of the said subjects should be granted under this Part of this Act and the landlord, within three months after the date of the said notice, sends to the occupying lessee a copy of such certificate, the occupying lessee shall not be entitled to the grant of such feu right.
- (2) Where the landlord under a lease is a local authority or a development corporation and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, the landlord may apply to the Secretary of State for a certificate that it is not in the public interest that a feu right of the said subjects should be granted under this Part of this Act, and, if the Secretary of State so certifies and the landlord, within three months after the date of the said notice, sends to the occupying lessee a copy of such certificate, the occupying lessee shall not be entitled to the grant of such feu right.
- (3) In this section—
  - " development corporation " has the same meaning as in the New Towns Act, 1946 ;
  - " Government department " does not include the Commissioners of Crown Lands ; and
  - " local authority " means a county council or a town council.

#### **5 Power to certain landlords who have acquired property for occupation as residence, etc., to apply to sheriff for declarator refusing grant of feu right**

- (1) Where the landlord under a lease acquired his interest thereunder during the period beginning with the first day of January, nineteen hundred and thirty-nine, and ending with the ninth day of May, nineteen hundred and fifty-one, and a notice requiring the grant of a feu right of any subjects let under such lease is given under section one of this Act by an occupying lessee, the provisions of this section shall have effect.
- (2) Such landlord may, within two months after the date of the notice referred to in the foregoing subsection, apply to the sheriff for a declarator that the occupying lessee is not entitled under this Part of this Act to the grant of a feu right of the said subjects and the sheriff shall pronounce such declarator if he is satisfied—
  - (a) that the landlord acquired his interest under the lease—
    - (i) for the purpose of occupying the subjects as a residence for himself ;  
or
    - (ii) for the purpose of development involving demolition, alteration or reconstruction of the subjects or a substantial part thereof, being development for which permission under the enactments relating to town and country planning has been granted, or is deemed to have been granted, or is not required; and

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- (b) that, having regard to all the circumstances of the case, greater hardship would be caused to the landlord if a feu right of the subjects were granted than would be caused to the occupying lessee if it were not granted.
- (3) In determining whether greater hardship would be caused if a feu right of the said subjects were granted than if it were not granted, the sheriff shall (without prejudice to the generality of paragraph (b) of the last foregoing subsection)—
- (a) have regard to the considerations that, if he pronounces a declarator under this section, the occupying lessee will not be entitled under this Part of this Act to the grant of a feu right of the subjects, and that no provision is made in this Act for payment to the occupying lessee of compensation in that event; and
  - (b) disregard the fact that, if he refuses to pronounce such declarator and a feu right of the subjects is granted under this Part of this Act, such feu right will be granted on the financial terms set out in sections seven to nine of this Act.

*Notice requiring grant of feu right*

**6 Notice requiring grant of feu right**

- (1) Any notice under section one of this Act shall be in writing, shall be in, or as nearly as may be in, the form set out in the First Schedule to this Act, and shall be signed by the occupying lessee or his solicitor.
- (2) Where an occupying lessee who is a sub-lessee gives such a notice to the landlord, he shall at the same time send a copy thereof to each intermediate landlord.
- (3) In this Part of this Act, the expression " intermediate landlord " means, where an occupying lessee is a sub-lessee, any person for the time being holding the interest of landlord under a sub-lease which comprises the property of which the occupying lessee is sub-lessee.

*Payments to be made where feu right granted*

**7 Sums payable to landlord by occupying lessee in respect of feu right of subjects let under lease with one hundred years or less unexpired**

- (1) Where a feu right of any subjects is to be granted under this Part of this Act by the landlord under a lease the unexpired period of which at the date of the notice given under section one of this Act by the occupying lessee does not exceed one hundred years, there shall be payable to the landlord by the occupying lessee in respect of the feu right—
  - (a) an amount calculated in accordance with the provisions of the next following subsection and payable—
    - (i) wholly by way of a lump sum ; or
    - (ii) wholly by way of an annual sum which shall be equal to one-twentieth of the said amount and shall form part of the feu-duty hereinafter mentioned; or
    - (iii) as to a part thereof, by way of a lump sum, and as to the remaining part thereof, by way of an annual sum which shall be equal to one-twentieth of such remaining part and shall form part of the feu-duty hereinafter mentioned;

as may be determined by agreement between the parties and, in default of such agreement, one half of the said amount shall be payable by way of a lump sum and one half by way of an annual sum;

- (b) a feu-duty equal to the aggregate of the following sums:—
    - (i) a sum equal to the rent payable under the lease or the proportion of such rent attributable to the subjects to be comprised in the feu right, as the case may be ; and
    - (ii) a sum in respect of the casualties (if any) payable under the lease equal to one-twentieth of the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act; and
    - (iii) any annual sum payable as provided in paragraph (a) of this subsection.
- (2) The amount referred to in paragraph (a) of the foregoing subsection shall be such amount as would, with compound interest at five per centum per annum with yearly rests for the period of the lease which is unexpired at the date of the notice referred to in the said subsection, produce at the end of the said period a sum equal to the value, as determined in accordance with the provisions of the next following subsection, of the, subjects to be comprised in the feu right.

Where the unexpired period of any lease is less than thirty years at the commencement of this Act, then for the purposes of this subsection such lease shall be deemed to expire on a date thirty years after such commencement.

- (3) For the purposes of the last foregoing subsection, the value of the subjects shall be determined by agreement between the parties or, in default of such agreement, by a valuer agreed by the parties or, in case of dispute, appointed by the sheriff, and—
- (a) such value shall be estimated as if the lease had expired at the commencement of this Act and the subjects were being sold in the open market at such commencement with vacant possession and subject to a feu-duty equal to the rent payable under the lease or the proportion of such rent attributable to the subjects, as the case may be; and
  - (b) if the lease contains a stipulation for payment of compensation by the landlord on the termination thereof, then in estimating such value account shall be taken of such compensation as if the lease had expired at the commencement of this Act.
- (4) Any lump sum payable under subsection (1) of this section shall bear interest at the rate of five per centum per annum from the date of entry under the feu right until paid.

## **8 Feu-duty payable in respect of feu right of subjects let under lease with over one hundred years unexpired**

Where a feu right of any subjects is to be granted under this Part of this Act by the landlord under a lease the unexpired period of which at the date of the notice given under section one of this Act by the occupying lessee exceeds one hundred years, there shall be payable in respect of the feu right a feu-duty equal to the aggregate of the following two sums:—

- (a) a sum equal to the rent payable under the lease or the proportion of such rent attributable to the subjects to be comprised in the feu right, as the case may be ; and

- (b) a sum in respect of the casualties (if any) payable under the lease equal to one-twentieth of the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act.

## **9 Payment to be made to intermediate landlord by occupying lessee on grant of feu right**

- (1) Where a feu right of any subjects is to be granted under this Part of this Act on the requirement of an occupying lessee who is a sub-lessee, there shall be paid to each intermediate landlord by the occupying lessee—
  - (a) a sum equal to the capital value, at the date of the notice given under section one of this Act by the occupying lessee, of any amount by which the rent payable to the intermediate landlord or the proportion of such rent attributable to the subjects to be comprised, in the feu right, as the case may be, exceeds the rent payable by him or the proportion of such rent attributable to the said subjects, as the case may be, receivable annually for the unexpired period, at the date of the said notice, of the sub-lease under which the intermediate landlord holds the interest of landlord, such capital value being calculated in accordance with the table set out in the Third Schedule to this Act ; and
  - (b) any sum by which the appropriate amount determined in accordance with the provisions of the Second Schedule to this Act in respect of the casualties (if any) payable to the intermediate landlord exceeds the appropriate amount determined in accordance with the provisions of the said Schedule in respect of the casualties (if any) payable by him.
- (2) Any sums payable under this section shall bear interest at the rate of five per centum per annum from the date of entry under the feu right until paid.

## **10 Payments to creditors**

- (1) Any lump sum received under subsection (1) of section seven of this Act by a landlord shall be paid by him to the creditors in right of any heritable securities burdening his interest in the subjects comprised in the feu right according to the rights and preferences of such creditors, and shall be applied in extinction or reduction of the debts secured by the said securities :

Provided that the landlord and the creditor in right of any such security may agree that any amount which the landlord is liable to pay to the said creditor under this subsection shall not be so paid, or that a part only of such amount shall be so paid.

- (2) Any sums received under the last foregoing section by an intermediate landlord shall be paid by him to the creditors in right of any securities which immediately before the grant of the feu right burdened his interest as intermediate landlord according to the rights and preferences of such creditors, and shall be applied in extinction or reduction of the debts secured by the said securities:

Provided that the intermediate landlord and the creditor in right of any such security may agree that any amount which the intermediate landlord is liable to pay to the said creditor under this subsection shall not be so paid, or that a part only of such amount shall be so paid.

### *Conveyancing provisions*

#### **11 Feu contract to be entered into on grant of feu right**

Where a feu right is to be granted under this Part of this Act of any subjects let under a lease, a feu contract shall be entered into which shall be in, or as nearly as may be in, the form set out in the Fourth Schedule to this Act, and in particular—

- (a) shall dispense the subjects subject to the conditions and restrictions specified in the lease in so far as they affect the subjects, are still subsisting and applicable and have not been implemented, departed from or discharged, and to such other conditions and restrictions, being reasonable and appropriate in the circumstances, as may be determined by agreement between the parties or, in default of such agreement, by the sheriff:

Provided that where the trustees of any religious denomination are the occupying lessee, there shall not without their consent be included in the feu contract a condition restricting the use of the subjects to use as a dwelling-house by a minister or full-time lay missionary of a religious denomination ;

- (b) shall contain a renunciation by the occupying lessee of the lease or sub-lease, as the case may be, under which he holds the interest of lessee, to the extent that such lease or sub-lease relates to the subjects ; and
- (c) where the occupying lessee is a sub-lessee, shall contain a renunciation by each intermediate landlord of the lease or sub-lease, as the case may be, under which such intermediate landlord holds the interest of lessee, to the extent that such lease or sub-lease relates to the subjects.

#### **12 Rights to minerals.**

Where a feu right is to be granted under this Part of this Act of any subjects let under a lease, then unless the parties otherwise agree—

- (a) if the minerals in the subjects are included in the lease, the said minerals shall be included in the feu right;
- (b) if the said minerals are in terms of the lease expressly reserved to the landlord, they shall be reserved to the superior with such right to work the same, and subject to payment to the vassal of such compensation for surface damage, as is provided in the lease ;
- (c) if the said minerals are not in terms of the lease expressly reserved to the landlord, they shall be reserved to the superior with right to work the same (but without entering on the surface of the ground) subject to payment to the vassal of such compensation for surface damage as in default of agreement may be determined by arbitration;

and the feu contract disposing the subjects shall contain an appropriate clause relating to minerals:

Provided that this section shall not have effect in relation to coal or other minerals vested in the National Coal Board by virtue of the provisions of the Coal Industry Nationalisation Act, 1946.

### **13 Execution of feu contract.**

- (1) The feu contract to be entered into on the grant of a feu right under this Part of this Act shall be signed by the landlord, the occupying lessee and, where the occupying lessee is a sub-lessee, each intermediate landlord.
- (2) Where the landlord or any intermediate landlord fails to sign a feu contract as provided in the foregoing subsection within two months after he has been called upon to do so, the occupying lessee may present an application to the sheriff craving him to ordain such landlord or intermediate landlord, as the case may be, to sign the feu contract within such period as to the sheriff shall seem reasonable, and, if the landlord or intermediate landlord fails to sign the feu contract as so ordained, the sheriff may make an order dispensing with the signature to the feu contract of such landlord or intermediate landlord and directing the sheriff clerk to sign the feu contract on behalf of such landlord or intermediate landlord.
- (3) Where an intermediate landlord is unknown or cannot be found, the occupying lessee may apply to the sheriff for an order dispensing with the signature to the feu contract of such intermediate landlord and directing the sheriff clerk to sign the feu contract on behalf of such intermediate landlord, and on making such an order the sheriff may, if he thinks fit, require the occupying lessee to consign in court any sums payable under section nine of this Act by him to such intermediate landlord.
- (4) Where in pursuance of an order made by the sheriff under this section a feu contract is signed by the sheriff clerk on behalf of a landlord or an intermediate landlord, such feu contract shall have the like force and effect as if it had been signed by such landlord or intermediate landlord, as the case may be.

### **14 Provisions where lease or sub-lease assigned by *ex facie* absolute assignation**

Where a feu right of any subjects is to be granted under this part of this Act and the lease or sub-lease under which the occupying lessee holds the interest of lessee has been assigned by *ex facie* absolute assignation—

- (a) the feu contract to be entered into in accordance with the provisions of section eleven of this Act shall dispense the subjects to the occupying lessee ;
- (b) the renunciation referred to in paragraph (b) of the said section eleven shall be granted by the occupying lessee and the person for the time being in right of the said assignation (hereafter in this section referred to as " the assignee ") for their respective interests in the lease or sub-lease to the extent that the lease or sub-lease relates to the subjects;
- (c) the feu contract shall be signed also by the assignee and, where the assignee fails to sign the feu contract within two months after he has been called upon to do so, the provisions of subsections (2) and (4) of the last foregoing section shall apply as if the assignee were the landlord or an intermediate landlord ;
- (d) the occupying lessee shall forthwith dispense the subjects to the assignee by an *ex facie* absolute disposition which shall be recorded in the Register of Sasines along with the feu contract.



*Continuation of certain leases and sub-leases*

**15 Continuation of leases and sub-leases expiring within five years after commencement of Act**

- (1) Subject to the provisions of the next following section, where the ish of any lease or sub-lease falls within the period of five years beginning with the commencement of this Act and immediately before the ish the interest of lessee under such lease or sub-lease is held by an occupying lessee, not being an occupying lessee who acquired the said interest (otherwise than by inheritance) on or after the tenth day of May, nineteen hundred and fifty-one, the lease or sub-lease, as the case may be, shall, to the extent that it relates to the subjects occupied by the occupying lessee as a private dwelling-house forming his usual residence, have effect as if for the ish there were substituted the term of Whitsunday, nineteen hundred and sixty.
- (2) In this and the next following section any reference to an ish shall, in relation to a lease or a sub-lease continued by virtue of the Long Leases (Temporary Provisions) (Scotland) Act, 1951, as extended by the Leasehold Property Act and Long Leases (Scotland) Act Extension Act, 1953, be construed as a reference to the date to which such lease or sub-lease has at the commencement of this Act been so continued.

**16 Power to occupying lessee to exclude operation of s. 15**

- (1) Where the occupying lessee under any lease or sublease gives to the person holding the interest of landlord under such lease or sub-lease, not later than forty days before the ish, notice in writing that he does not desire that the lease or sublease, as the case may be, shall be continued under the last foregoing section, that section shall not have effect regarding the lease or sub-lease.
- (2) Where any lease or sub-lease has been continued under the last foregoing section and the occupying lessee gives to the person holding the interest of landlord under such lease or sublease notice in writing that he desires that the said section shall no longer apply to the lease or sub-lease, as the case may be, the lease or sub-lease shall come to an end on such date, not earlier than forty days after the date of the said notice, as may be specified therein.

**17 Restriction on exercise of option to terminate lease or sub-lease**

Where the person holding the interest of landlord under any lease or sub-lease has an option thereunder to terminate such lease or sub-lease on a date falling within the period of five years beginning with the commencement of this Act and immediately before the said date the interest of lessee under the lease or sub-lease is held by an occupying lessee, not being an occupying lessee who acquired the said interest (otherwise than by inheritance) on or after the tenth day of May, nineteen hundred and fifty-one, the lease or sub-lease, as the case may be, shall, to the extent that it relates to the subjects occupied by the occupying lessee as a private dwelling-house forming his usual residence, have effect as if the said option were an option to terminate the lease or sub-lease at the term of Whitsunday, nineteen hundred and sixty.

### *Supplementary provisions*

## **18 Rules for determining duration of lease or sub-lease**

- (1) For the purposes of this Part of this Act, the following rules shall apply in determining the duration of any lease or sub-lease:—
- (a) where the lease or sub-lease contains an obligation upon the person holding the interest of landlord thereunder to renew the same from time to time at fixed periods or upon the termination of a life or lives, the lease or sub-lease, as the case may be, shall be deemed to endure for the full period to which the obligation to renew applies;
  - (b) where the duration of the lease or sub-lease is wholly or partly dependent upon the endurance of a life or lives, then—
    - (i) in the case of the life of a person no longer in existence, regard shall be had to the period for which such life existed or, if such period cannot be ascertained, the endurance of such life shall be deemed to be thirty-five years ;
    - (ii) in the case of the life of an identifiable person in existence, the expectancy of life of such person shall be determined in accordance with the table set out in the Fifth Schedule to this Act;
    - (iii) in the case of the life of a person not yet in existence or not identifiable, the endurance of such life shall be deemed to be thirty-five years ;
  - (c) where the person holding the interest of landlord under the lease or sub-lease has an option thereunder to terminate such lease or sub-lease on a date falling after the commencement of this Act, the lease or sub-lease, as the case may be, shall be deemed to expire on such date or, where there is more than one such date, on the first such date.
- (2) For the purposes of section one of this Act, in determining the duration of any lease or sub-lease, regard shall not be had to the application (if any) to the lease or sub-lease of the Long Leases (Temporary Provisions) (Scotland) Act, 1951, as extended by the Leasehold Property Act and Long Leases (Scotland) Act Extension Act, 1953, or of sections fifteen or seventeen of this Act.

## **19 Rules for determining rent payable under lease or sub-lease**

For the purposes of this Part of this Act, the following rules shall apply in determining the rent payable under any lease or sub-lease:—

- (a) where the rent or a proportion thereof is payable in grain or other fungible or 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, the amount of such rent or of such proportion, as the case may be, shall be deemed to be equal to a sum in sterling money representing the average value, during the period of ten years immediately preceding the date of the notice given under section one of this Act by the occupying lessee, of the grain or other fungible delivered or deliverable or of the sum paid or payable in respect of such grain or other fungible;
- (b) where lawful services or other duties of an annually recurring nature are stipulated for in the lease or sub-lease, the annual value of such services or duties in sterling money as the same shall be determined by agreement

between the parties or, in default of such agreement, by the sheriff, shall be deemed to be the rent payable under the lease or sub-lease, or shall be added to any rent payable otherwise under the lease or sublease, as the case may be :

Provided that where such services or duties have not been exacted or insisted on within the period of ten years immediately preceding the seventeenth day of December, nineteen hundred and fifty-three, no account shall be taken thereof.

## 20 Apportionment of rent

Where for the purposes of this Part of this Act it is necessary to apportion the rent payable under any lease or sublease between two or more parts of the property let under such lease or sub-lease, the apportionment shall be made by agreement amongst the parties concerned or, in default of such agreement, by the sheriff.

## 21 Provisions regarding securities

- (1) Where a feu right of any subjects is granted under this Part of this Act, any bond and assignation in security or other security (not being a security constituted by *ex facie* absolute assignation) which immediately prior to such grant burdened the interest of the occupying lessee shall, as from the appropriate date determined in accordance with the provisions of the next following subsection, have effect in relation to the said subjects as if it had been duly completed in accordance with the appropriate form usually employed in such cases for burdening property held in feu farm of a superior and shall burden the *dominium utile* of the subjects accordingly.
- (2) The appropriate date for the purposes of the foregoing subsection shall be—
  - (a) where the bond and assignation in security or other security has been recorded in the Register of Sasines before the date of the feu contract disposing the subjects, the date of the said feu contract;
  - (b) where the bond and assignation in security or other security has not been so recorded before the date of the said feu contract, the date of recording such bond and assignation in security or other security in the Register of Sasines.
- (3) Any securities which by virtue of this section burden the *dominium utile* of any subjects and any *ex facie* absolute disposition of those subjects granted in accordance with the provisions of paragraph (d) of section fourteen of this Act shall be entitled to the same preferences inter se as if a feu right of those subjects had not been granted, and the creditors in right of securities which by virtue of this section burden the *dominium utile* of any subjects shall, in regard to the said subjects, be entitled to all the remedies competent to creditors holding corresponding securities over property held in feu farm for recovery of the sums due to them.
- (4) Where a feu right of any subjects is granted under this Part of this Act, any bond and disposition in security or other heritable security which immediately prior to such grant burdened the interest of the landlord in the said subjects shall, as from the date of the feu contract disposing the subjects, burden only the superiority and not the *dominium utile* thereof, and the creditors in right of such securities shall, in regard to the said subjects, be entitled to all the remedies competent to creditors holding corresponding securities over an estate of superiority for recovery of the sums due to them.
- (5) Where a feu right of any subjects is granted under this Part of this Act, any securities which immediately prior to such grant burdened the interest of an intermediate landlord shall, on the date of the feu contract disposing the said subjects, cease to

burden such interest to the extent that such interest relates to the subjects and shall not burden or affect those subjects, but save as aforesaid such securities shall continue in full force and effect.

- (6) Any reference in this section to the date of a feu contract shall, in relation to a feu contract executed, on more than one date, be construed as a reference to the date on which such feu contract was last executed.

## **22 Expenses to be borne by occupying lessee**

The expenses of any valuation carried out under subsection (3) of section seven of this Act and the expenses of the preparation and execution of a feu contract or an *ex facie* absolute disposition under this Part of this Act, including the stamp duty payable thereon and the dues of recording the same, shall be borne by the occupying lessee.

## **23 Provisions regarding notices, etc.**

- (1) Any notice or other document required or authorised by this Part of this Act to be given or sent to any person shall be sent by post in a registered letter addressed—
- (a) to the said person ; or
  - (b) where the said person is a landlord or an intermediate landlord, either to him or to the person to whom the rent under the lease or sub-lease, as the case may be, is in use to be paid; or
  - (c) where the said person, being an intermediate landlord, is unknown or cannot be found and no rent is being paid under the sub-lease, to the Extractor of the Court of Session ; or
  - (d) where the said person is a local authority, development corporation; or an incorporated company or body, to the clerk, secretary or other proper officer of such authority, corporation, company or body.
- (2) For the purposes of this section, the proper address of any person to whom any such notice or document is to be given or sent shall, in the case of the clerk, secretary or other proper officer of a local authority, development corporation, or an incorporated company or body, be that of the principal or registered office of such authority, corporation, company or body, and in any other case shall be the last known address of the person in question.
- (3) A copy of any such notice or document bearing a certificate of the due posting thereof signed by the person giving the notice or sending the document or by his solicitor, together with a post office receipt for the registered letter containing the notice or document, shall be sufficient evidence that the notice was duly given or that the document was duly sent, as the case may be, to the person to whom such registered, letter was addressed at the address specified therein on the date mentioned in such receipt, which date shall be deemed to be the date of the notice or of the sending of the document, as the case may be.
- (4) Any such notice or document shall be effectually given or sent notwithstanding that the person to whom it is required or authorised to be given or sent is in pupilarity or minority or otherwise subject to any legal incapacity at the date of the notice or at the date of the sending of the document, as the case may be.

**24 Provisions regarding heirs of entail, etc.**

It shall be lawful for all heirs of entail, trustees, judicial factors, tutors and curators, notwithstanding any limitations in their titles, to exercise all powers conferred by this Part of this Act and to execute, register and carry into effect all deeds required to render such powers fully operative, and such deeds shall be binding upon all persons whomsoever interested in the property to which such deeds relate.

*Interpretation of Part I***25 Interpretation of Part I**

In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—

" by inheritance " means as a beneficiary under a will or intestacy or as donee under a mortis causa donation ;

" casualty " means any grassum, duplicand or other periodical or casual payment stipulated in a lease or a sub-lease to be payable in addition to the annual rent;

" heritable securities " and " securities " have the same meaning as in the Conveyancing (Scotland) Act, 1924, except that they include securities constituted by *ex facie* absolute disposition or assignation ;

" intermediate landlord " has the meaning assigned to it by section six of this Act;

" landlord " has the meaning assigned to it by section one of this Act;

" lease " has the meaning assigned to it by section one of this Act;

" lessee " has the meaning assigned to it by section one of this Act;

" occupying lessee " has the meaning assigned to it by section one of this Act;

" rent " includes rent, tack duty, or other services or prestations to be made under a lease or a sub-lease to the person holding the interest of landlord thereunder;

" sub-lease " has the meaning assigned to it by section one of this Act; and

" sub-lessee " has the meaning assigned to it by section one of this Act.

**PART II**

## EXTENSION AND AMENDMENT OF REGISTRATION OF LEASES (SCOTLAND) ACT, 1857

**26 Extension of 20 and 21 Vict. c. 26**

(1) Where a lease registrable under the Registration of Leases (Scotland) Act, 1857, has not been recorded in the Register of Sasines and cannot be found, it shall be lawful to record a copy of such lease in the Register of Sasines under the said Act as if it were the lease if there is endorsed on such copy and recorded therewith a probative declaration signed by the landlord and lessee for the time being and containing—

- (a) a statement that the lease cannot be found and that the copy is a true copy of the lease ; and
- (b) the names and designations of the said landlord and lessee (unless such names and designations are set forth in the copy).

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- (2) Where the landlord fails to sign a declaration as provided in the foregoing subsection within two months after he has been called upon to do so, the lessee may present an application to the sheriff craving him to ordain the landlord to sign the declaration within such period as to the sheriff shall seem reasonable; and, if the landlord fails to sign the declaration as so ordained, the sheriff may make an order dispensing with the signature to the declaration of the landlord and directing the sheriff clerk to sign the declaration on behalf of the landlord.
- (3) Where in pursuance of an order made by the sheriff under this section a declaration is signed by the sheriff clerk on behalf of a landlord, such declaration shall have the like force and effect as if it had been signed by such landlord.
- (4) Where in pursuance of this section a copy of any lease has been recorded in the Register of Sasines, such lease shall be deemed to have been so recorded on the date of the recording of the said copy.

## **27 Amendment of s. 18 of 20 and 21 Vict. c. 26**

- (1) Notwithstanding the provisions of section eighteen of the Registration of Leases (Scotland) Act, 1857, (which provides that except as mentioned therein, no lease of lands and heritages shall be held to be registrable under that Act unless the name of the lands of which the subjects let consist or form a part is set forth in such lease and unless the extent of the land let is set forth in such lease and does not exceed fifty acres), no lease shall be held not to be registrable under the said Act by reason only that the name of the lands of which the subjects let consist or form a part is not set forth in such lease or by reason only that the extent of the land let is not set forth in such lease, if there is set forth in such lease a particular description of the subjects let under the lease or a description by reference of the said subjects in accordance with the provisions of the Conveyancing (Scotland) Act, 1874, and the Conveyancing (Scotland) Act, 1924, and there is endorsed on such lease and recorded therewith a probative declaration signed by the landlord and lessee for the time being stating that the extent of the land let does not exceed fifty acres.
- (2) A lease recorded in the Register of Sasines under the said Act of 1857 before the commencement of this Act shall not be held to have been invalidly recorded by reason only that the name of the lands of which the subjects let consist or form a part is not set forth in such lease or by reason only that the extent of the land let is not set forth in such lease, if there is set forth in such lease a particular description of the subjects let under the lease or a description by reference of the said subjects in accordance with the provisions of the Conveyancing (Scotland) Act, 1874, and the Conveyancing (Scotland) Act, 1924, but any deed relating to the land let under the lease or to any part of such land may be recorded in the Register of Sasines after the commencement of this Act if and only if—
  - (a) such deed contains a declaration that the extent of the land let under the lease does not exceed fifty acres ; or
  - (b) a deed relating to the land let under the lease or to such part thereof, as the case may be, has been recorded in the Register of Sasines after the commencement of this Act in pursuance of this subsection.

## **PART III**

### **GENERAL**

#### **28 Applications to sheriff**

- (1) Any dispute arising out of the provisions of this Act shall be referred to the sheriff and determined by him.
- (2) The decision of the sheriff in any application made to him under this or any other section of this Act shall be final and not subject to review.
- (3) The sheriff may in any such application make such award of expenses as he thinks proper, or may make no award of expenses.
- (4) Any such application shall be conducted and disposed of in a summary manner.
- (5) In this Act any reference to the sheriff shall, in relation to any lease or sub-lease, be construed as a reference to the sheriff within whose jurisdiction the property let under such lease or sub-lease, or any part of such property, is situated.

#### **29 Application to Crown**

This Act shall, subject to the provisions of section four thereof, apply where there is an interest belonging to Her Majesty in right of the Crown or to a Government department or held on behalf of Her Majesty for the purposes of a Government department in like manner as where no such interest subsists.

#### **30 Construction of references to enactments**

Any reference in this Act to any previous enactment shall, except in so far as the contrary intention appears, be construed as a reference to that enactment as amended, extended or applied by any subsequent enactment, including this Act.

#### **31 Citation, commencement and extent**

- (1) This Act may be cited as the Long Leases (Scotland) Act, 1954.
- (2) This Act shall come into operation on the first day of September, nineteen hundred and fifty-four.
- (3) This Act shall apply to Scotland only.

## SCHEDULES

### FIRST SCHEDULE

Sections 1, 6.

FORM OF NOTICE TO BE GIVEN BY AN OCCUPYING LESSEE WHO  
 DESIRES THE GRANT OF A FEU RIGHT UNDER PART I OF THIS ACT

(1)  
 Take notice that A.B. (2) as lessee (*or sub-lessee, as the case may be*) of (3)  
 under lease (*or sub-lease*) entered into between  
 and dated  
 and recorded (*if recorded*)  
 (4) requires you to grant a feu right of the said subjects in  
 accordance with the provisions of the Long Leases (Scotland) Act,  
 1954.

Dated this    day of    , 19

(Signed) A.B.

*or*

C.D., W.S., Edinburgh,  
 Solicitor for the said A.B.

*or*

E. & F., W.S., Edinburgh,  
 Solicitors for the said A.B.  
 (*or as the case may be*)

### NOTES

(1) To be addressed to the landlord or to the person to whom the rent under the lease is in use to be paid.

(2) Name and design the occupying lessee.

(3) Describe here the subjects of which a feu right is required by usual name or short description sufficient for identification.

(4) Where the occupying lessee is a sub-lessee, add here—“ which subjects form the whole (*or part, as the case may be*) of the property let under a lease entered into between  
 and dated  
 and recorded (*if recorded*)



## SECOND SCHEDULE

Sections 7, 8, 9.

## DETERMINATION OF THE APPROPRIATE AMOUNT IN RESPECT OF CASUALTIES PAYABLE UNDER A LEASE OR A SUB-LEASE

1 The appropriate amount in respect of the casualties payable under any lease or sub-lease shall be—

(a) such sum as may be determined by agreement between the landlord or intermediate landlord, as the case may be, and the occupying lessee; or

(b) in default of such agreement,—

(i) where casualties are exigible only on the death of the person holding the interest of lessee under the lease or sub-lease, a sum equal to the highest casualty or, if a feu right is to be granted of a part only of the property let under the lease or sub-lease, the proportion of such casualty attributable to the subjects to be comprised in the feu right:

Provided that if at the date of the notice given under section one of this Act by the occupying lessee and after payment of any casualty which may then be exigible the state of the title is such that the next casualty may be that payable on the entry or succession of an heir, and the amount of the casualty payable by an heir is less than the amount which would be payable on the entry of a singular successor, the said sum shall be subject to an abatement of one half;

(ii) where casualties are exigible on the occasion of each transfer of the lease or sub-lease as well as on the death of the person holding the interest of lessee under the lease or sub-lease, a sum equal to one and two-thirds times the highest casualty or one and two-thirds times the proportion of such casualty attributable to the subjects to be comprised in the feu right, as the case may be:

Provided that if at the date of the said notice and after payment of any casualty which may then be exigible the state of the title is such that the next casualty may be that payable on the entry or succession of an heir, and the amount of the casualty payable by an heir is less than the amount which would be payable on the entry of a singular successor, the said sum shall be subject to an abatement of two-fifths;

(iii) where casualties are payable at fixed and regularly recurring intervals, such sum as will, with the addition of simple interest at the rate of five per centum per annum, produce on the next recurrence of the fixed interval a sum representing twenty-five times the highest casualty or twenty-five times the proportion of such casualty attributable to the subjects to be comprised in the feu right, as the case may be, divided by the number of years constituting such interval.

2 The appropriate amount determined under the foregoing paragraph shall be in respect only of casualties payable under the lease or sub-lease subsequent to the date of the notice referred to in that paragraph, and the appropriate amount shall be fixed as at the said date.

3 Where for the purposes of this Schedule it is necessary to apportion any casualty payable under a lease or a sub-lease between two or more parts of the property

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let under such lease or sub-lease, the apportionment shall be made by agreement amongst the parties concerned or, in default of such agreement, by the sheriff.

THIRD SCHEDULE

Section 9.

TABLE REFERRED TO IN PARAGRAPH (A) OF SUBSECTION (1) OF SECTION NINE OF THIS ACT

Unexpired Period of Sub-lease Years	Capital Value of £1 per annum	
	£	s.
1	—	19
2	1	17
3	2	14
4	3	11
5	4	7
6	5	2
7	5	16
8	6	9
9	7	2
10	7	14
11	8	6
12	8	17
13	9	8
14	9	18
15	10	8
16	10	17
17	11	5
18	11	14
19	12	2
20	12	9
21	12	16
22	13	3
23	13	10
24	13	16
25	14	2
26	14	8

Unexpired Period of Sub-lease	Capital Value of £1 per annum	
27	14	13
28	14	18
29	15	3
30	15	7
31	15	12
32	15	16
33	16	0
34	16	4
35	16	7
36	16	11
37	16	14
38	16	17
39	17	0
40	17	3
41	17	6
42	17	8
43	17	11
44	17	13
45	17	15
46	17	18
47	18	0
48	18	2
49	18	3
50	18	5
51-55	18	10
56-60	18	16
61-65	19	2
66-70	19	6
71-75	19	9
76-80	19	13
81-85	19	13
86-90	19	15
91-95	19	16

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Unexpired Period of Sub-lease	Capital Value of £1 per annum
96 and over	19   17

## FOURTH SCHEDULE

Sections 11, 12, 13, 14.

FORM OF FEU CONTRACT TO BE USED IN THE  
GRANT OF A FEU RIGHT UNDER PART I OF THIS ACT

It is contracted and agreed between the parties following, viz:—  
A.B. (*designation*) heritable proprietor of the subjects hereinafter feued ON THE ONE PART and C.D. (*designation*) ON THE OTHER PART in manner following, that is to say:—WHEREAS the said subjects are the subjects (*or a part of the property, as the case may be,*) let by lease granted by E.F. (*designation*) in favour of G.H. (*designation*) dated \_\_\_\_\_ and recorded (*if recorded*) \_\_\_\_\_, which lease (*add, if necessary, but only to the extent that it relates to the subjects hereinafter feued*) is hereby renounced by the said C.D. as from the date of entry aftermentioned; and WHEREAS a feu right of the said subjects is hereinafter granted in accordance with the provisions of the Long Leases (Scotland) Act, 1954, and (*where applicable*) the sum of £ \_\_\_\_\_ is to be paid to the said A.B. by the said C.D. by way of a lump sum under subsection (1) of section seven of the said Act; THEREFORE the said A.B., in consideration of the payment of the said sum of £ \_\_\_\_\_ (the receipt of which is hereby acknowledged by the said A.B.) and of the feu-duty and other prestations hereinafter mentioned, hereby in feu farm disposes to the said C.D. and his heirs and assignees whomsoever heritably and irredeemably All and Whole (*here insert description of subjects feued and include a clause relating to minerals in accordance with section twelve of this Act*); But always with and under the reservations, real burdens, conditions, provisions, restrictions, obligations and others following, viz:—(*here insert conditions and restrictions specified in the lease in so far as they affect the subjects, are still subsisting and applicable and have not been implemented, departed from or discharged, and such other conditions and restrictions as have been determined by agreement between the parties or, in default of such agreement, by the sheriff*); And it is declared that all the reservations, burdens, conditions and others hereinbefore contained shall constitute real burdens on the subjects hereby feued and on all buildings erected or to be erected thereon, and it is directed that the same and the irritant and resolute clauses hereinafter written shall be contained at full length in the infertment to follow hereon and shall be imported in terms of law in all future transmissions and other writs of or relating to the feu or buildings or any part thereof but subject to section nine of the Conveyancing (Scotland) Act, 1924; And it is further declared that in the event of any contravention of or failure to fulfil the feuing conditions or the foregoing direction all acts and deeds of contravention shall be void and the said C.D. and his foresaids shall forfeit all right to the feu and buildings which shall revert and fall to the said A.B. or his heirs or successors free from all burdens as if these presents had never been granted; With entry at (*here insert date of notice given under section one of this Act by the occupying lessee or such other date as may be agreed between the parties*); To be holden of and under the said A.B. and his heirs and successors as immediate superiors in feu farm fee and heritage for ever paying therefor the sum of £ \_\_\_\_\_ yearly in name of feu-duty and that at two terms in the year (*or, as the case may be, stating the terms at which the feu-duty is to be*

*paid*), beginning the first term's payment at the term of            for  
 the period preceding and the next at the term of            following and  
 so forth half-yearly thereafter in all time coming, (*here insert provisions  
 as to penalty and interest*); (*here insert clauses of assignation of writs  
 and rents, obligation of relief and warrandice normal to a feu contract*);  
**FOR WHICH CAUSES AND ON THE OTHER PART** the said  
 C.D. binds himself and his heirs, executors and representatives whom-  
 soever to pay to the said A.B. and his foresaids the said sum of feu-duty  
 at the respective terms of payment before mentioned with penalty  
 and interest as aforesaid and to implement, observe and perform the  
 whole other burdens, conditions and others hereinbefore written;  
 (*here insert certificate of value, if applicable, and clause of registration*).  
 [To be attested]

#### NOTES.

1. Where the person to whom the subjects are to be feued is a sub-lessee, the form should be suitably adapted to include *inter alia* the following additional provisions:—

- (a) a narrative of the sub-lease;
- (b) a renunciation, to take effect as from the date of entry, by the intermediate landlord of the lease or sub-lease under which he holds the interest of lessee, to the extent that it relates to the subjects to be feued; and
- (c) a narrative of any sums to be paid under section nine of this Act to the intermediate landlord by the sub-lessee and an acknowledgment of receipt of such sums.

2. If the person renouncing the lease or sub-lease is not the person in whose favour the lease or sub-lease was originally granted, add immediately after the renunciation—

- (a) where his title is recorded—“ which lease (*or sub-lease and add, if necessary, ‘ to the extent that it relates to the subjects hereinafter feued ’*) is now vested in the said C.D., his title thereto being recorded in the said Division of the General Register of Sasines (*or as the case may be, and give date of recording*) ”; or
- (b) where his title is not recorded but the title of a predecessor vested in the lease or sub-lease was recorded,—“ which lease (*or sub-lease and add, if necessary, ‘ to the extent that it relates to the subjects hereinafter feued ’*) was last vested in the said G.H. as aforesaid (*or, if G.H. is not a person having such title, say, ‘ in J.K. [design person having said title], whose title thereto is recorded in the said Division of the General Register of Sasines [or as the case may be, and give date of recording] ’*), and from whom the said C.D. acquired right by (*here specify shortly the writ or series of writs by which right was acquired*) ”; or
- (c) where there is no recorded title,—“ And Whereas the said C.D. acquired right to the said lease (*or sub-lease and add, if necessary, ‘ to the extent that it relates to the subjects hereinafter feued ’*) by (*here specify shortly the writ or series of writs by which right was acquired*) ”.

3. Where the subjects disposed in the feu contract are comprised in a lease or a sub-lease which has been assigned by *ex facie* absolute assignation and the provisions of section fourteen of this Act apply, the form should be suitably adapted to fit the circumstances.

## FIFTH SCHEDULE

Section 18.

TABLE REFERRED TO IN PARAGRAPH (B) OF SUBSECTION (1) OF SECTION EIGHTEEN OF THIS ACT OF THE EXPECTANCY OF LIFE OF AN IDENTIFIABLE PERSON IN EXISTENCE

Years of age of Person	Years of expectancy	
	Male life	Female life
Birth to 4	65	69
5 to 9	63	67
10 to 14	58	62
15 to 19	53	57
20 to 24	48	52
25 to 29	44	48
30 to 34	39	43
35 to 39	35	38
40 to 44	30	33
45 to 49	26	29
50 to 54	22	25
55 to 59	18	21
60 to 64	15	17
65 to 69	12	13
70 to 74	9	10
75 to 79	7	8
80 to 84	5	6
85 and over	4	4

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Registration of Leases (Scotland) Act, 1857	<a href="#">20 &amp; 21 Vict. c. 26.</a>
Conveyancing (Scotland) Act, 1874	<a href="#">37 &amp; 38 Vict. c. 94.</a>
Conveyancing (Scotland) Act, 1924	<a href="#">14 &amp; 15 Geo. 5. c. 27.</a>
Coal Industry Nationalisation Act, 1946	<a href="#">9 &amp; 10 Geo. 6. c. 59.</a>
New Towns Act, 1946	<a href="#">9 &amp; 10 Geo. 6. c. 68.</a>
Long Leases (Temporary Provisions) (Scotland) Act, 1951	<a href="#">14 &amp; 15 Geo. 6. c. 28.</a>
Leasehold Property Act and Long Leases (Scotland) Act Extension Act, 1953	<a href="#">1 &amp; 2 Eliz. 2. c. 12.</a>