



# Long Leases (Scotland) Act 1954

## 1954 CHAPTER 49

### PART I

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

##### *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.