



# Conveyancing (Scotland) Act 1924

## 1924 CHAPTER 27 14 and 15 Geo 5

### **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 litigiosity, 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 <sup>[F1]</sup>—

(i)] a notice relative to such action in or as nearly as may be in the form of Schedule RR annexed to the <sup>M1</sup>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 <sup>[F1]</sup>; or

(ii) a notice of an application under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 has been registered in the said register.]

(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.

<sup>[F2(2A)]</sup> A notice registered under subsection (2)(a)(i) of this section on or after the date on which section 67 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (warrant to place a caveat) comes into force shall not have any effect in rendering—

(a) any land or lease for which there is a title sheet in the Land Register of Scotland, or

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- (b) any heritable security the particulars of which are entered in a title sheet in that register,
- litigious or in placing in bad faith any person acquiring such land, lease or heritable security.]
- (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 <sup>F3</sup> ... [<sup>F4</sup>, notices of litigiousity and notices of applications under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985] 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.
  - [<sup>F5</sup>(aa) all inhibitions shall cease to have effect on the lapse of five years from the date on which they take effect.]
  - (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) ..... <sup>F6</sup>
  - (c) No deed, decree, instrument or writing granted or expedite by a person whose estates have been sequestrated under the <sup>M2</sup>Bankruptcy (Scotland) Act, 1856, or the Bankruptcy (Scotland) Act. 1913 [<sup>F7</sup>or the Bankruptcy (Scotland) Act 1985][<sup>F8</sup> or the Bankruptcy (Scotland) Act 2016], 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 [<sup>F9</sup>(a)] 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 [<sup>F9</sup>; or (b) under subsection (1)(a) of section 14 of the Bankruptcy (Scotland) Act 1985 [<sup>F10</sup>or (1)(a) of section 26 of the Bankruptcy (Scotland) Act 2016] the certified copy of an order shall have expired by virtue of subsection (3) of [<sup>F11</sup>the said section 14 or (4) of the said section 26]], 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 [<sup>F12</sup>or have recorded a memorandum in such register [<sup>F13</sup>in the form provided by Schedule O to this Act]] Provided always, in the case of sequestrations awarded under the <sup>M3</sup>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.

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- (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 <sup>M4</sup>Titles to Land Consolidation (Scotland) Act, 1868, and sections sixteen and seventeen of the <sup>M5</sup>Land Registers (Scotland) Act, 1868, . . . <sup>F14</sup>, are hereby amended in accordance with this section, and section forty-two of the <sup>M6</sup>Conveyancing (Scotland) Act, 1874, and Schedule J thereto annexed, are hereby repealed.

#### Textual Amendments

- F1** S. 44(2)(a)(ii) and figure (i) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), s. 59(1), **Sch. 2 para. 6(a)**
- F2** S. 44(2A) inserted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 9(4)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F3** Word in s. 44(3)(a) repealed (22.4.2009) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 156(a), 227(3)** (with s. 223); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F4** S. 44(3)(a) Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), s. 59(1), **Sch. 2 para. 6(b)**
- F5** S. 44(3)(aa) inserted (22.4.2009) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 156(b), 227(3)** (with s. 223); S.S.I. 2009/67, art. 3(1)(a) (with arts. 4-6) (as amended (31.1.2011) by S.S.I. 2011/31, art. 5(b))
- F6** S. 44(4)(a) and (b) repealed by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(2), **Sch. 8**
- F7** Words inserted by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(1), **Sch. 7 para. 5(a)**
- F8** Words in s. 44(4)(c) inserted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 3(a)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F9** Words inserted by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(1), **Sch. 7 para. 5(b)**
- F10** Words in s. 44(4)(c)(b) inserted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 3(b)(i)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2; S.S.I. 2016/294, reg. 2
- F11** Words in s. 44(4)(c)(b) substituted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 3(b)(ii)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2; S.S.I. 2016/294, reg. 2
- F12** Words inserted by Conveyancing Amendment (Scotland) Act 1938 (c. 24), **s. 7(1)(b)**
- F13** Words substituted by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(1), **Sch. 7 para. 5(c)**
- F14** Words repealed by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(2), **Sch. 8**

#### Marginal Citations

- M1** 1868 c. 101.  
**M2** 1856 c. 79.  
**M3** 1856 c. 79.  
**M4** 1868 c. 101.  
**M5** 1868 c. 64.  
**M6** 1874 c. 94.

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