



Church of Scotland (Property And Endowments) Act 1925

1925 CHAPTER 33 15 and 16 Geo 5

PART IV U.K.

GENERAL

34 Provisions relating to quoad sacra parishes. U.K.

With respect to parishes quoad sacra erected under the ^{M1}New Parishes (Scotland) Act 1844, the ^{M2}United Parishes (Scotland) Act 1868, and the ^{M3}United Parishes (Scotland) Act 1876 (other than parishes quoad sacra erected under section fourteen of the said Act of 1844), the following provisions shall have effect:—

- (1) In the case of a parish erected before the passing of this Act—
 - (a) The statutory properties and endowments of the parish shall be transferred to the General Trustees as in this section provided;
 - (b) As soon as conveniently may be after the passing of this Act there shall be prepared by the General Trustees ^{F1}... with respect to each parish, an inventory referring to this section of this Act and setting out the statutory properties and endowments of the parish, and each such inventory shall specify—
 - (i) the name of the parish;
 - (ii) each property or security forming part of the said statutory properties and endowments; and
 - (iii) the name or names of the person or persons in whom the same is vested;
 - (c) Without prejudice to the provisions of the immediately following paragraph of this subsection any person in whom any property or security specified in any such inventory is vested shall if so required by the General Trustees, and at their expense, transfer such property or security to the General Trustees, and do and concur in doing all acts and things necessary for that purpose;
 - (d) Upon any such inventory in so far as the same relates to heritable properties or securities being recorded in the appropriate register of sasines the heritable

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properties and securities specified in such inventory shall by virtue of this Act and without the necessity of any further conveyance be deemed and taken to be validly transferred to and vested in the General Trustees as if a disposition or assignation by the person or persons in whom the said heritable properties or securities were vested had been granted in favour of the General Trustees and had been recorded in the appropriate register of sasines;

^{F2}(e)

(f) The General Assembly, or any body to which the General Assembly may delegate the necessary power, may at any time after the completion of the transfer to the General Trustees of the properties and securities specified in any such inventory alter the existing deed of constitution of the parish to which the inventory relates, or annul the said deed and grant a new deed of constitution in place thereof;

^{F3}(g) The statutory properties and endowments of the parish transferred to the General Trustees under or by virtue or in pursuance of this subsection shall be held by the General Trustees for the same ends, uses and purposes as those for which they were held by the trustees or other persons in whom they were vested prior to their being so transferred, or, if the General Assembly [^{F4}or any body to which the General Assembly may delegate the necessary powers]shall . . . ^{F5}at any time so direct, shall be sold or otherwise disposed of, and the proceeds shall be held and applied by the General Trustees (or by any body to whom the General Assembly may delegate or may have delegated the necessary powers) in accordance with the provisions of section thirty-six of this Act. Provided that no ground used as a burial ground shall be put to any other use.]

(2) In the case of a parish erected after the passing of this Act—

- (a) the titles, deeds, certificates, and other documents of or relating to the statutory properties and endowments of the parish shall be taken in the name of the General Trustees;
- (b) the original deed of constitution shall be in such terms as the General Assembly, or any body to which the General Assembly may delegate the necessary power, may direct, and the General Assembly or any such body may subsequently alter the said deed or annul the same and grant a new deed of constitution in place thereof:

^{F6}(3)

(4) In this section—

the expresssion “the statutory properties and endowments of the parish” means—

- (i) the church erected as a parish church for the parish under the aforesaid Acts of 1844, 1868, and 1876; and
- (ii) where a manse or glebe has been permanently provided under the said Acts as part of the endowment of the minister of the parish, such manse or glebe; and
- (iii) any ^{F7}... heritable securities permanently provided and secured at the time of erection or subsequently substituted ^{F7}... for the minister of the parish or for the maintenance of the church or manse ^{F7}...; and
- (iv) any Government securities or other securities or investments (not being heritable securities) permanently provided and secured or substituted as aforesaid;

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the expression “church” includes the fabric and site of the church and hall (if any) and any ground used as a burial ground in connection therewith;

The expression “manse” includes the dwelling-house and offices and appurtenances thereof.

Textual Amendments

- F1** Words in s. 34(1)(b) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(7)(a)(i), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F2** S. 34(1)(e) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(7)(a)(ii), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F3** S. 34(1)(g) substituted by [Church of Scotland \(Property and Endowments\) Amendment Act 1933](#) (c. 44), s. 1
- F4** Words inserted by [Church of Scotland \(Property and Endowments\) Amendment Order Confirmation Act 1978](#) (c.i.), Sch.
- F5** Words repealed by [Church of Scotland \(Property and Endowments\) Amendment Order Confirmation Act 1978](#) (c.i.), Sch.
- F6** S. 34(3) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(7)(b), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F7** Words in s. 34(4)(iii) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(7)(c), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

- M1** 1844 c. 44.
M2 1868 c. 30.
M3 1876 c. 11.

35 Provisions relating to the allocation and redemption of bonds of annual rent held for behoof of quoad sacra churches. **U.K.**

- (1) Where the debtor under any bond and disposition in security, bond of annual rent, or other heritable security, whereby the payment of any annual sum is secured over land in favour of the minister of any parish quoad sacra erected under the ^{M4}New Parishes (Scotland) Act 1844, the ^{M5}United Parishes (Scotland) Act 1868, and the ^{M6}United Parishes (Scotland) Act 1876, or in favour of the trustees acting under the deed of constitution of any such parish or of the General Trustees as coming in place of such minister or trustees (such minister or trustees or the General Trustees, as the case may be, being hereinafter in this section referred to as “the creditor”), sells or has sold any portion of such land the debtor shall be entitled to allocate upon the portion of such land so sold such a proportion of such annual sum as may be agreed upon between the debtor and the creditor, or, failing agreement, as may be fixed by the sheriff of the county in which such land is situated upon the application of the debtor.
- (2) If, as a result of any such allocation as is provided in the preceding subsection, the proportion of such annual sum so allocated, or the proportion of such annual sum remaining unallocated, does not exceed one pound in amount, the debtor shall forthwith redeem the same by payment to the General Trustees of a sum equal to the proportion of such annual sum so allocated, or to the proportion of such annual sum remaining unallocated, as the case may be, multiplied by twenty, and if the

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proportion of such annual sum so allocated, or the proportion of such annual sum remaining unallocated, exceeds one pound but is less than fifteen pounds in amount, such proportion shall be increased from the date when such allocation takes effect by five per cent.

- (3) Where the debtor and the creditor have agreed upon, or the sheriff has fixed, the proportion of such annual sum to be allocated the debtor shall be entitled to obtain from the creditor a memorandum of allocation in or as nearly as may be in the form of the Thirteenth Schedule to this Act, and upon such memorandum of allocation being recorded in the appropriate register of sasines the allocation contained therein shall be binding on all having interest.
- (4) Such annual sum or an allocated proportion thereof exceeding one pound may at any time be redeemed by and in the option of the debtor either
- (a) for such consideration or in such manner as may be agreed upon between the debtor and the creditor; or
 - (b) at any term of Whitsunday or Martinmas after three months' notice either
 - (i) by payment to the creditor of such a sum as would, if invested at the time of payment in Consolidated 2½ per cent. annuities produce a yearly amount equal to the annual sum to be redeemed, or
 - (ii) by transfer to the creditor of such an amount of Consolidated 2½ per cent. annuities as would produce a yearly amount equal to the annual sum to be redeemed.
- (5) Upon such annual sum or the allocated proportion thereof being redeemed by the debtor, as in this section provided, the debtor shall be entitled to obtain from the creditor a deed or other document disburdening the land over which the same is secured, which shall be recorded on behalf of the debtor in the appropriate register of sasines.
- (6) The whole expenses of any allocation of such annual sum and of the redemption of such annual sum or a proportion thereof shall be defrayed by the debtor.
- (7) In this section the word “debtor” includes the original debtor, his successor in such land, any ^{F8}... purchaser of such land or portion thereof, or any disponee to whom such land or portion thereof may be disposed.

Textual Amendments

F8 Words in s. 35(7) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(8), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C1 S. 35(3) amended by [Land Registration \(Scotland\) Act 1979](#) (c.33, SIF 31:3), **s. 29(2)(3)**

Marginal Citations

M4 1844 c. 44.

M5 1868 c. 30.

M6 1876 c. 11.

Changes to legislation: There are currently no known outstanding effects for the Church of Scotland (Property And Endowments) Act 1925, Part IV. (See end of Document for details)

36 Requirements of parish to be first charge on endowments. **U.K.**

All moneys received by the General Trustees with respect to any parish under or in pursuance of the provisions of this Act relating to stipend and any church, manse, glebe or other property heritable or moveable situated in, or forming part of, the endowments of any parish transferred to, or received by, the General Trustees by or in pursuance of this Act, and the proceeds of any such moneys, property, or endowments shall be appropriated in the first place to meeting the proper requirements of that parish or its neighbourhood (as such requirements may be determined by the General Assembly or by any body to which the General Assembly may delegate the necessary power), and any remainder after these requirements have been fully met shall form part of a general fund at the disposal of the General Assembly [F9 or any body to which the General Assembly may delegate the necessary powers][F10]. Provided that except where a benefice is actually vacant at the passing of this Act or has become actually vacant thereafter—]

- (a) [F10 all payments received by the General Trustees from heritors in respect of a stipend or standard charge until the same is redeemed, and the income from the redemption money in respect of the stipend or standard charge, shall be appropriated to the payment of that stipend after deduction of a sum not exceeding two per centum of the said payments and income to meet the expense of administration; and]
- (b) [F10 the determination of the General Assembly shall not be exercised so as to decrease the amount of stipend, or the income from, or in respect of, any property transferred to the General Trustees as aforesaid to be received by the incumbent of a benefice nor so as to diminish the benefit to be derived by the incumbent from the use or occupation of any such property.]

Textual Amendments

F9 Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c.i.), Sch.

F10 Words in s. 36 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 16(9), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C2 S. 36 amended by [Church of Scotland \(Property and Endowments\) Act 1957 \(c. 30\)](#), s. 1.

37 Powers of General Trustees. **U.K.**

In addition to any powers which they already enjoy, the General Trustees shall have power to hold, maintain, administer, and dispose of any property of whatsoever description transferred to, or received by, or vested in them under, or in pursuance of this Act, subject always to the provisions of this Act and to the directions of the General Assembly, . . . F11 Without prejudice to the foregoing generality, the General Trustees shall have power, subject as aforesaid, to compromise or settle any claim against or by any [F12 heritor or other] person arising out of anything contained in this Act or done thereunder.

Textual Amendments

F11 Words repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), **Sch. 11 Pt. III**

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F12 Words in s. 37 repealed (S.) (28.11.2004) by **Abolition of Feudal Tenure etc. (Scotland) Act 2000** (asp 5), ss. 71, 77(2), Sch. 12 paras. 16(10), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

38 Additional powers of General Trustees. U.K.

- (1) The General Assembly shall have power to appoint from among the General Trustees a chairman and a vice-chairman of the General Trustees who shall respectively hold office for such period with such powers and duties, and subject to such conditions as the General Assembly may determine, and such chairman and vice-chairman or either of them may receive such remuneration as the General Assembly may from time to time fix. Such chairman, whom failing such vice-chairman, shall when present act as chairman at all meetings of the General Trustees, and when so present shall come in place of any chairman falling to be appointed under section thirteen of the Church of Scotland (General Trustees) Order 1921, and shall have the like voting powers. Without prejudice to the provisions of the said section with respect to the manner in which meetings of the General Trustees may be called, the chairman or the vice-chairman appointed by the General Assembly may direct that meetings of the General Trustees shall be called.
- (2) The General Trustees shall have power to appoint or employ (either from among their own number or otherwise) a solicitor or legal adviser to the General Trustees and such additional officers, attorneys, and persons as they may consider necessary for the proper conduct of the business of the General Trustees, and to pay to such solicitor or legal adviser or other officers, attorneys, or persons employed by them suitable remuneration for their services.
- (3) Any intimation to the General Trustees shall be competently made if addressed to the clerk or the chairman or vice-chairman of the General Trustees on their behalf at the known address of the General Trustees in Edinburgh, and any intimation by the General Trustees shall be competently made by the clerk or the chairman or vice-chairman on their behalf.
- (4) The General Assembly shall have power to determine from time to time the number of General Trustees who shall form a quorum at meetings of the General Trustees, provided always that the number so determined shall in no case be less than three as prescribed in section thirteen of the Church of Scotland (General Trustees) Order 1921.
- (5) All expenses incurred by the General Trustees in the discharge of their duties under this Act, so far as such expenses are not otherwise provided for under this Act, shall be defrayed in such manner as the General Assembly may determine, and the provisions of section nineteen of the said Order of 1921 shall not apply to such expenses.
- (6) The General Assembly may from time to time make byelaws and regulations to be observed by the General Trustees in the discharge of their duties under this Act.

F13 39 Allocation by General Trustees of certain moneys to be received from Treasury. U.K.

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Textual Amendments

F13 Ss. 39-41 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 16\(11\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F13} 40 Redemption of manse maill, &c. [U.K.](#)

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Textual Amendments

F13 Ss. 39-41 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 16\(11\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

^{F13} 41 Provisions relating to Court of Teinds. [U.K.](#)

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Textual Amendments

F13 Ss. 39-41 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 16\(11\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

42 Application to Crown lands. [U.K.](#)

This Act shall be binding on the Crown and the provisions of this Act shall apply to lands vested in His Majesty in right of the Crown, and to lands vested in any Government Department for public purposes^{F14}, and to the teinds] of any lands so vested in His Majesty or in any Government Department.

Textual Amendments

F14 Words in s. 42 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 paras. 16\(12\)](#), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

43 ^{F15} [U.K.](#)

Textual Amendments

F15 S. 43 repealed by [Local Government \(Scotland\) Act 1929 \(c. 25\)](#), [Sch. 9](#)

44 Provisions for preservation of heritors' records. [U.K.](#)

Whereas in consequence of the transfers of rights of property and the transfer or termination of obligations in connection therewith effected or to be effected by or under or in pursuance of this Act, the powers and duties of heritors (including the

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power and duty to impose and levy heritors' assessments) will in due course be extinguished, it shall be the duty of the clerk to the heritors of any parish where such extinction has been effected to make intimation thereof in writing to the Secretary for Scotland, who may by order under his hand give such direction as he may think necessary or proper with respect to the preservation and permanent custody of the books of the heritors or any records or documents in their possession as heritors or in the possession of their clerk.

Modifications etc. (not altering text)

C3 S. 44 amended by [Church of Scotland \(Property and Endowments\) Amendment Act 1933 \(c. 44\), s. 17](#)

45 Saving for obligations of relief. U.K.

[^{F16}Nothing in this Act shall prejudice or affect any obligation to relieve the heritor of any lands from liability in respect of any stipend or augmentation thereof exigible from the teinds of such lands, and any such obligation shall extend to relief from liability in respect of any standard charge over those lands or in respect of any payments under the section of this Act relating to provisions where stipend does not exceed one pound.]

Textual Amendments

F16 S. 45 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), Sch. 12 paras. 16\(13\), Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

46 Saving for superiors. U.K.

[^{F17}Nothing in this Act shall affect or be deemed to affect the rights of superiors of the sites of the churches mentioned in the Ninth Schedule to this Act, where the superiorities are not held by or on behalf of town councils, to payment of their feu duties from the parties in whom the dominium utile of the said sites is vested by this Act or otherwise, and to all other rights and privileges vested in such superiors prior to the passing of this Act.]

Textual Amendments

F17 S. 46 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\), ss. 71, 77\(2\), Sch. 12 paras. 16\(13\), Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

47 Interpretation. U.K.

(1) In this Act, unless the context otherwise requires—

- “The Church” means the Church of Scotland;
- “The General Assembly” means the General Assembly of the Church;
- “The General Trustees” means the Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order 1921;
- “The Commissioners” means the Scottish Ecclesiastical Commissioners to be appointed under this Act;
- “Minister” means a minister of the Church;

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“Stipend” means the stipend of a minister^{F18}, including any allowance for communion elements payable by heritors out of teinds];

“Glebe” means the lands appropriated to a minister as his glebe, and shall be deemed to include grass glebe or minister’s grass, servitudes, right of pasturage, or other heritable rights belonging to the minister and forming part of the benefice, or any money payments in use to be made to the minister in respect of the said rights or any of them, and any land settled in perpetuity on the minister for the time being;

“Court of Teinds” has the same meaning as in the ^{M7}United Parishes (Scotland) Act 1876;

“Manse” and “Lord Ordinary” have the same meanings as in the ^{M8}Ecclesiastical Buildings and Glebes (Scotland) Act 1868.

- (2) [^{F19}For the purposes of this Act the surrendered teinds of any lands payable as stipend shall be deemed to be stipend exigible from the teinds of those lands.]
- (3) [^{F19}The reference to “teinds” in section fifty-nine of the ^{M9}Improvement of Land Act 1864, shall be construed so as to include standard charges.]

Textual Amendments

F18 Words in s. 47(1) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 16(14)(a), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F19 S. 47(2)(3) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 paras. 16(14)(b), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2; S.S.I. 2003/456, art. 2

Marginal Citations

M7 1876 c. 11.

M8 1868 c. 96.

M9 1864 c. 114.

48 Repeal. **U.K.**

.....^{F20} and so much of any Act as is inconsistent with this Act is also hereby repealed.

Textual Amendments

F20 Words repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

49 Short title. **U.K.**

This Act may be cited as the Church of Scotland (Property and Endowments) Act 1925.

Changes to legislation:

There are currently no known outstanding effects for the Church of Scotland (Property And Endowments) Act 1925, Part IV.