



# Entail Amendment Act 1848

1848 CHAPTER 36 11 and 12 Vict

**25 Where entailed estate may be charged with debt, estate may be sold for payment thereof.**

In all cases in which it is made competent by this Act for any heir of entail in possession of an entailed estate in Scotland to charge the same with debt, by granting bonds and dispositions in security therefor over such estate, freed from all the clauses prohibitory, irritant, and resolute contained in the tailzie in virtue whereof such estate is holden, and also in all cases in which such charge is made competent by any Act of Parliament, but no power of sale granted to the heir of entail, and in all cases in which the fee of an entailed estate is validly charged with debt, it shall be lawful for the heir of entail in possession for the time being to sell and dispose of any portion or portions of such estate, other than the mansion house, offices, and policies thereof, which may be necessary, and which the Court of Session may select as most suitable and proper to be sold and disposed of for the purpose of paying off the debt in respect of which such charge has been or might be competently made; and it shall be lawful for such heir of entail in possession to grant, at the sight and under authority of the court, valid and effectual dispositions in fee simple in ordinary form of such portion or portions of the said estate, to the purchaser thereof, and his heirs or assignees; and the price to be obtained for the portion or portions of the estate to be so sold shall be previously approved of by the court, and shall be paid into court, under the application for sale, by the purchaser, who shall by such payment be fully discharged of such price, and have no interest, concern, or responsibility as to the application thereof; and such price shall be applied, at the sight of the court, in or towards payment or extinction of the said debt; and the surplus of such price remaining after payment of the said debt, and of the expences attending the application for sale and procedure thereon, shall, if more than two hundred pounds, be invested in other lands or heritages, to be added to the remainder of such entailed estate, or be laid out and expended in or towards payment of entailer's debts, or in or towards payment of any money charged on the fee of such entailed estate under this or any other Act, or in redemption of the land tax affecting such entailed estate, or in permanently improving the same, or in repayment of money already expended in such improvements, as may be deemed most advisable; and if such surplus shall be invested in other lands or heritages, to be added to the remainder of such entailed estate, the tailzie of such other lands or heritages shall, whatever be its actual date, be taken to be of equal date with the tailzie of the remainder of such

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*Status:* Point in time view as at 01/02/1991. This version of this provision has been superseded.

*Changes to legislation:* There are currently no known outstanding effects for the Entail Amendment Act 1848, Section 25. (See end of Document for details)

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entailed estate; and if such surplus be less than two hundred pounds, the same shall be paid to the heir of entail in possession of such entailed estate for the time, for his own use and behoof, all at the sight and under the direction of the Court of Session.

**Status:**

Point in time view as at 01/02/1991. This version of this provision has been superseded.

**Changes to legislation:**

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