



Registration of Leases (Scotland) Act 1857

1857 CHAPTER 26 20 and 21 Vict

1 Long Leases, and assignments thereof, [^{F1}registrable in Land Register of Scotland or Register of Sasines] in Register of Sasines.

[^{F2}(1)] It shall be lawful to [^{F3}register in the Land Register of Scotland or as the case may be] record in the general register of sasines in Scotland, . . . ^{F4}probative leases, whether executed before or after the passing of this Act, for a period [^{F5}exceeding twenty years], of lands and heritages in Scotland . . . ^{F6} and to [^{F7}register or record assignments and translations of such leases], all herein-after mentioned.

[^{F8}(2) In subsection (1) above, the expression “lands and heritages in Scotland” is, without prejudice to its generality, to be construed as including the seabed of the territorial sea of the United Kingdom adjacent to Scotland.]

Textual Amendments

- F1** Words in s. 1 title substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 3](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F2** S. 1(1): s. 1 renumbered as s. 1(1) (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 2\(c\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F3** Words in s. 1 inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 2\(a\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F4** Words repealed by [Statute Law Revision Act 1892](#) (c. 19)
- F5** Words substituted retrospectively by [Land Tenure Reform \(Scotland\) Act 1974](#) (c. 38), [Sch. 6 para. 1](#)
- F6** Words repealed by [Burgh Registers \(Scotland\) Act 1926](#) (c. 50), s. 4, [Sch. 2](#)
- F7** Words in s. 1 substituted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 2\(b\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F8** S. 1(2) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 2\(d\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

2 [F⁹Registered and recorded] leases effectual against singular successors in the lands let.

Leases registerable under this Act, and valid and binding as in a question with the granters thereof, which shall have been duly [F¹⁰registered or] recorded, as herein provided, . . . F¹¹ shall, by virtue of such registration, be effectual against any singular successor in the lands and heritages thereby let, whose [F¹²title is completed after] the date of such registration: Provided always, that, except for the purposes of [F¹³, and subject to section 20C of,] this Act, it shall not be necessary to record any such lease as aforesaid, but that all such leases which would, under the existing law prior to the passing of this Act, have been valid and effectual against any such singular successor as aforesaid, shall, though not recorded, be valid and effectual against such singular successor, as well as against the granters of the said leases.

Textual Amendments

- F9** Words in s. 2 title substituted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 5** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F10** Words in s. 2 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 4(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F11** Words repealed retrospectively by Land Tenure Reform (Scotland) Act 1974 (c. 38), Sch. 6 para. 2, **Sch. 7**
- F12** Words in s. 2 substituted (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12 para. 6(2)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F13** Words in s. 2 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 4(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

3 Assignations of [F¹⁴registered or] recorded leases.

[F¹⁵(1) When any such lease as aforesaid shall have been [F¹⁶registered or] recorded as herein provided, it shall be lawful for the party in right of such lease, and whose right is [F¹⁷registered or] recorded in terms of this Act, but in accordance always with the conditions and stipulations of such lease, and not otherwise, to assign the same, in whole or in part, by assignation, in the form as nearly as may be of the Schedule [F¹⁸(ZA.) or, as the case may be,] (A.) to this Act annexed; and the [F¹⁹registering or] recording of such assignation shall fully and effectually vest the assignee with the right of the granter thereof in and to such lease to the extent assigned: Provided always, that such assignation shall be without prejudice to the right of hypothec, or other rights of the landlord.

(2) Notwithstanding—

- (a) any restriction imposed by subsection (1) above on the power under that subsection to assign such a lease; or
- (b) any rule of law to the contrary,

it shall be, and shall be deemed always to have been, competent in an assignation under this section

[to impose conditions and make stipulations [F²¹or
F²⁰(i)]

(ii) to import such conditions and stipulations,]

which, upon the F²²... registration under the Land Registration (Scotland) Act 1979 of the assignee's interest [F²³or the registration of such assignation under the Land

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Registration etc. (Scotland) Act 2012 (asp 5) or the recording of such assignation], shall be as effectual against any singular successor of the assignee in the subjects assigned as if such assignee had been a grantee of the lease [^{F24}and, as the case may be, the grantee's interest or the lease had been so registered or the lease had been duly recorded.]

- [Any person entitled to grant an assignation under this section may—
- ^{F25}(2A) (a) execute a deed containing such conditions, or stipulations, as may be specified in an assignation under subsection (2) above; and
- (b) register such conditions and stipulations in the Land Register of Scotland or, as the case may be, record the deed in the Register of Sasines,
- and, subject to subsection (2C) below, on such registration or, as the case may be, recording such conditions and stipulations shall be effectual.
- (2B) “Import” in subsection (2)(ii) above means to import into itself from a deed of conditions (“deed of conditions” having the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) the terms of the conditions or stipulations; and importation in or as nearly as may be in the form set out in schedule 1 to that Act (but with the modification that for the references in that form to the terms of the title conditions there are substituted references to the terms of the conditions or stipulations) shall suffice in that regard.
- (2C) Where ^{F26}... a deed provides for the postponement of effectiveness of any conditions or, as the case may be, stipulations to—
- (a) a date specified in that deed (the specification being of a fixed date and not, for example, of a date determinable by reference to the occurrence of an event); or
- (b) the date of—
- (i) registration ^{F27}...; or
- (ii) recording of,
- some other deed so specified,
- the conditions, or stipulations, shall take effect in accordance with such provision.]
- (3) Nothing in subsection (2) [^{F28}or (2A)] above makes effectual against any successor of the assignee any obligation of periodical payment other than a payment—
- (a) of rent or of an apportionment of rent;
- (b) in defrayal of a contribution towards some continuing cost related to the lands and heritages subject to the lease assigned; or
- (c) under a heritable security.
- (4) A provision in an assignation [^{F29}, or as the case may be in a deed such as is mentioned in subsection (2A) above,] which purports to make effectual against any successor of the assignee any obligation of periodic payment other than one specified in paragraphs (a) to (c) of subsection (3) above shall not render the deed void or unenforceable, but the assignation [^{F30}, or as the case may be the deed,] shall have, and shall be deemed always to have had, effect only to the extent (if any) that it would have had effect if it had not imposed such obligation.
- (5) ^{F31} ...]

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

Textual Amendments

- F14** Words in s. 3 title inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 7** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F15** S. 3 renumbered as s. 3(1) and s. 3(2)–(5) inserted thereafter by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 75:2), **s. 3**
- F16** Words in s. 3(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(a)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F17** Words in s. 3(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(a)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F18** Words in s. 3(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(a)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F19** Words in s. 3(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(a)(iv)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F20** S. 3(2)(i): words in s. 3(2) renumbered as s. 3(2)(i) (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(2)(a)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F21** S. 3(2)(ii) and word inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(2)(b)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F22** Words in s. 3(2) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F23** Words in s. 3(2) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F24** Words in s. 3(2) substituted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(b)(iii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F25** S. 3(2A)–(2C) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(3)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F26** Words in s. 3(2C) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(c)(i)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F27** Words in s. 3(2C) repealed (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 6(c)(ii)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F28** Words in s. 3(3) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(4)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F29** Words in s. 3(4) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(5)(a)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F30** Words in s. 3(4) inserted (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 14 para. 1(5)(b)** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F31** S. 3(5) repealed (S.) (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 15** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

F³²4 Assignations in security.

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Textual Amendments

- F32** S. 4 repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 para. 6(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F33 5 Where Party presenting for Registration not original Lessee or Assignee.

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Textual Amendments

F33 S. 5 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 6(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

6 Translation of assignments in security. Creditor's entry to possession in default of payment.

All such assignments in security as aforesaid shall, when recorded, be transferable, in whole or in part, by translation, in the form as nearly as may be of the Schedule (D.) to this Act annexed; and the recording of such translation shall fully and effectually vest the party in whose favour it was granted with the right of the granter thereof in such assignment in security to the extent assigned; and the creditor or party in right of such assignment in security, without prejudice to the exercise of any power of sale therein contained, shall be entitled, in default of payment of the capital sum for which such assignment in security has been granted, or of a term's interest thereof, or of a term's annuity, for six months after such capital sum or term's interest or annuity shall have fallen due, to apply to the sheriff for a warrant to enter on possession of the lands and heritages leased; and the sheriff, after intimation to the lessee for the time being, and to the landlord, shall, if he see cause, grant such warrant, which shall be a sufficient title for such creditor or party to enter into possession of such lands and heritages, and to uplift the rents from any sub-tenants therein, and to sub-let the same, as freely and to the like effect as the lessee might have done: Provided always, that no such creditor or party, unless and until he enter into possession as aforesaid, shall be personally liable to the landlord in any of the obligations and prestations of the lease.

Modifications etc. (not altering text)

C1 S. 6 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, **Sch. 8 para. 4**

7 **F34**

Textual Amendments

F34 S. 7, Sch. (E.) repealed with saving by [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), **Sch. 3**

F35 8 Heir or disponee may complete title by recording notarial instrument.

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Textual Amendments

F35 S. 8 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 6(3), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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F369 Where Assignee has died without recording Assignment, Mode of making up Title.

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Textual Amendments

F36 S. 9 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 6(3), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

10 Adjudgers to complete right by recording abbreviate.

When an adjudication of any such lease [^{F37}registered or recorded] or assignation in security recorded as aforesaid shall have been obtained against the party vested in the right thereof respectively, or against the heir of such party, the [^{F38}registering or] recording of the abbreviate of adjudication in the register in which the lease is [^{F39}registered or] recorded shall complete the right of the adjudger to such lease or assignation in security.

Textual Amendments

- F37** Words in s. 10 inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 8\(a\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F38** Words in s. 10 inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 8\(b\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F39** Words in s. 10 inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 8\(c\)](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F4011 Trustees on sequestrated estate may be entered on register.

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Textual Amendments

F40 S. 11 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 6(3), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

12 Preferences regulated by date of [^{F41}registering or] recording transfer.

All such leases executed after the passing of this Act, and all assignations [^{F42}of any such lease registered or recorded as aforesaid], assignations in security of any such lease recorded as aforesaid, and translations thereof, and all adjudications of such leases [^{F43}registered or] recorded as aforesaid, or assignations in security, shall in competition be preferable according to their dates of [^{F44}registering or] recording.

Textual Amendments

F41 Words in s. 12 title inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 10](#) (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

- F42** Words in s. 12 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 9(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F43** Words in s. 12 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 9(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F44** Words in s. 12 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 9(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

13 Renunciations and discharges to be [^{F45}registered or] recorded.

On the production to the keeper of the register of a renunciation of any such lease as aforesaid [^{F46}registered or] recorded therein, or of a discharge of any such assignation in security as aforesaid therein recorded, by or on behalf of the party appearing on the register as in right of such lease or assignation in security, which renunciation or discharge may be in the form of the Schedules [^{F47}(ZG.) (or (G.))] and (H.) respectively to this Act annexed, and may be endorsed on such lease or assignation in security, he shall forthwith duly [^{F48}register or] record the same.

Textual Amendments

- F45** Words in s. 13 title inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 12** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F46** Words in s. 13 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 11(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F47** Words in s. 13 substituted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 11(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F48** Words in s. 13 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 11(c)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

- C2** S. 13 amended by Conveyancing (Scotland) Act 1924 (c. 27), s. 24(5); excluded by Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), s. 32, **Sch. 8 para. 5**

14 Entry of Decree of Reduction.

On the production to any such keeper of an extract of a decree of reduction of any such lease, assignation, assignation in security, translation, adjudication, instrument, discharge, or renunciation [^{F49}registered or as the case may be] recorded in the register of which he is the keeper, he shall forthwith duly [^{F50}register or] record the same.

Textual Amendments

- F49** Words in s. 14 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 13(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F50** Words in s. 14 inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 2 para. 13(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

15 Mode of registering. Extracts to make faith as writs registered.

- [^{F51}(1)] Leases, assignations, assignations in security, translations, adjudications, instruments, discharges, renunciations, and other writs, duly presented for registration in pursuance

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of this Act, shall be forthwith shortly entered in the minute book of the register in common form, and shall, with all due despatch, be fully registered in the register book, and thereafter re-delivered to the parties, with certificates of due registration thereon, which shall be probative of such registration, such certificates specifying the date of presentation, and the book and folio in which the engrossment has been made . . . ^{F52} and the date of entry in the minute book shall be held to be the date of registration; . . . ^{F53}.

[^{F54}(2) References in subsection (1) above to registration are not to be construed as including references to registration in the Land Register of Scotland.]

Textual Amendments

- F51** S. 15(1): s. 15 renumbered as s. 15(1) (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 2 para. 14(a)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F52** Words repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), s. 1, **Sch. 1 Pt. XV**
- F53** Words repealed with saving by [Statute Law Revision Act 1892 \(c. 19\)](#) and [Succession \(Scotland\) Act 1964 \(c. 41\)](#), s. 34(2), **Sch. 3**
- F54** S. 15(2) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 2 para. 14(b)** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

[^{F55}16 Registration equivalent to possession.

(1) The registration of all such leases, assignments, assignments in security, translations, adjudications [^{F56}and writs of acknowledgment] as aforesaid, in manner herein provided, shall complete the right under the same respectively, to the effect of establishing a preference in virtue thereof, as effectually as if the grantee, or party in his right, had entered into the actual possession of the subjects leased under such writs respectively at the date of registration thereof.]

[^{F57}(2) The registration of any such lease or other writ as aforesaid, in manner herein provided, on or after 1st September 1974, shall, without prejudice to the foregoing provisions of this section and to the provisions of section 2 of the ^{M1} Prescription and Limitation (Scotland) Act 1973, complete the right under the same to the effect of establishing in virtue thereof such a preference as aforesaid over the right of any party to any such lease or writ, or of any party in his right, granted after that date and not registered in manner herein provided at the time of the registration of the lease or writ first mentioned.]

[^{F58}(3) References in subsections (1) and (2) above to registration are not to be construed as including references to registration in the Land Register of Scotland.]

Textual Amendments

- F55** Words repealed by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), **Sch. 11 Pt. III**
- F56** Words in s. 16(1) substituted (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 6(4)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F57** S. 16 renumbered as subsection (1) of that section by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), **Sch. 6 para. 3**
- F58** S. 16(3) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **Sch. 2 para. 15** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

Marginal Citations

M1 1973 c. 52.

17 Leases, with obligation to renew, registerable.

Leases containing an obligation upon the granter to renew the same from time to time at fixed periods, or upon the termination of a life or lives, or otherwise, shall be deemed leases within the meaning of this Act, and registerable as such, provided such leases shall by the terms of such obligation be renewable from time to time so as to endure for a period [^{F59}exceeding twenty years]

Textual Amendments

F59 S. 16(2) added by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), [Sch. 6 para. 3](#)

18 ^{F60}

Textual Amendments

F60 S. 18 repealed by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), [Sch. 6 para. 5](#), [Sch. 7](#)

19 Extracts registerable where leases recorded in Court of Session or Sheriff Court Books prior to Act.

Where any such lease as aforesaid registerable under this Act shall, . . . ^{F61}, have been recorded in the books of council and session, or in the books of any sheriff [^{F62}commissary] or burgh court, the production to the keeper of the register of an extract of such lease shall be a sufficient warrant for him to record the same, and he shall thereupon duly record it, and the recording thereof shall be as valid and effectual as if the original lease had been presented to him.

Textual Amendments

F61 Words substituted retrospectively by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), [Sch. 6 para. 4](#)

F62 Words repealed retrospectively by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), [Sch. 6 para. 6](#), [Sch. 7](#)

Modifications etc. (not altering text)

C3 Functions of Commissary Courts and Commissary Clerks in Scotland (except Commissary Clerk of Edinburgh) now exercisable by Sheriffs and Sheriff Clerks: [Sheriff Courts \(Scotland\) Act 1876 \(c. 70\)](#), [ss. 35-39, 54](#), [Sheriff Courts and Legal Officers \(Scotland\) Act 1927 \(c. 35\)](#), [ss. 10, 11\(1\)](#) and [S.R. & O. 1933/1089 \(1933, p. 520\)](#)

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

^{x1}**20** **Clauses in Schedules to be held to import and to have effect as declared by 10 & 11 Vict. c. 50.**

The several clauses in the schedules to this Act annexed shall be held to import such and the like meaning and to have such and the like effect as is declared by the Act of the tenth and eleventh of Queen Victoria, chapter fifty, sections second and third, to belong to the corresponding clauses in the Schedule to the said recited Act annexed, and the procedure thereby prescribed for a sale under a bond and disposition in security shall be applicable to a sale of any such lease as aforesaid under any such assignation in security as is herein-before mentioned.

2. The clause of assignation of rents to become due or payable shall be held to import an assignation to rents from and after the term from which interest on the sum in the bond commences to run in the fuller form now generally in use, including therein a power to the creditor, on default in payment, to enter into possession of the lands disposed in security and uplift the rents thereof, subject to accounting to the debtor for any balance of rents actually recovered beyond what is necessary for payment of the creditor; and the clause of assignation of writs shall be held to import an assignation to writs and evidents to the same effect as in the fuller form now in use in a bond and disposition in security with power of sale; and the clause of warrandice shall be held to import absolute warrandice as regards the lands and the title deeds thereof, and warrandice from fact and deed as regards the rents; and the clause consenting to registration for preservation and execution shall import a consent to registration and a procuratory for registration in the books of council and session, or other judge's books competent for preservation, and that letters of horning or six days charge, and all other necessary execution, may pass on a decree to be interponed thereto; and the clause consenting to registration in the general or particular or burgh register of sasines shall entitle the creditor to register the said bond accordingly, either in the general register of sasines, or particular register of sasines, or burgh register of sasines, as the tenure of the lands embraced in the security may require.

3. The clauses reserving right of redemption, and obliging the granter to pay the expences of assigning or discharging the security, and, on default in payment, granting power of sale, shall be in all respects as valid, effectual, and operative as if it had been in such bond and disposition in security specially provided and declared that the lands and others thereby disposed should be redeemable by the granter, his heirs and successors, from the grantee and his heirs and successors, at the term and place of payment, or at any term of *Whitsunday* or *Martinmas* thereafter, upon premonition of three months, to be made by the granter or his foresaids to the grantee or his foresaids, personally or at their dwelling places, if within *Scotland*, and if furth thereof at the time then at the office of the keeper of the record of edictal citations within the general register house, *Edinburgh*, in presence of a notary public and witnesses, and that by payment to them of the whole principal sum payable under the bond and disposition in security, interest due thereon, and liquidated expences and termly failures corresponding thereto, if incurred, and in case of their absence or refusal to receive the same, by consignation thereof, in one or other of the banks in *Scotland*, incorporated by Act of Parliament or Royal Charter, having an office or branch at the place of payment, to be made furthcoming on the peril of the consigner, the place of redemption to be within the office of such bank or branch thereof; and as if it had been thereby further provided and declared, that any discharge and renunciation, disposition and assignation, or other deed necessary, to be granted by the grantee or his foresaids, upon the granter or his foresaids making payment and redeeming as aforesaid, and also the recording thereof, should always be at the expence of the granter and his foresaids; and as if it had been thereby further provided and declared that if the granter

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

or his foresaids should fail to make payment of the sums that should be due by the personal obligation contained in the said bond and disposition in security within three months after a demand of payment intimated to the granter or his foresaids, whether of full age or in pupillarity or minority, or although subject to any legal incapacity, personally, or at their dwelling places if within *Scotland*, or if furth thereof at the office of the keeper of the record of edictal citations above mentioned, by a notary public and witnesses, then and in that case it should be lawful to and in the power of the grantee or his foresaids, immediately after the expiration of the said three months, and without any other intimation or process at law, to sell and dispose, in whole or in lots, of the said lands and others by public roup, at *Edinburgh* or *Glasgow*, or at the head burgh of the county within which the said lands and others, or the chief part thereof, are situated, or at the burgh or town sending or contributing to send a member to Parliament which, whether within or without the county, shall be nearest to such lands, or the chief part thereof, on previous advertisement stating the time and place of sale, and published once weekly for at least six weeks subsequent to the expiry of the said three months, in any newspaper published in *Edinburgh*, and also in any newspaper published in such county, or if there be no newspaper published in such county, then in any newspaper published in the next or a neighbouring county, the grantee being always bound, upon payment of the price, to hold count and reckoning with the granter or his foresaids for the same, after deduction of the principal sum secured, interest due thereon, and liquidated penalties corresponding to both which may be incurred, and all expences attending the sale, and for that end to enter into articles of roup, grant dispositions, containing all usual and necessary clauses, and in particular a clause binding the granter of the said bond and disposition in security, and his heirs, in absolute warrandice of such dispositions, and obliging him and them to corroborate and confirm the same, and to grant all other deeds and securities requisite and necessary by the laws of *Scotland* for rendering such sale or sales effectual, in the same manner and as amply in every respect as the granter could do himself; and as if it had been thereby further provided and declared that the said proceedings should all be valid and effectual whether the debtor in the said bond and disposition in security for the time should be of full age, or in pupillarity or minority, or although subject to any legal incapacity, and that such sale or sales should be equally good to the purchaser or purchasers as if the granter himself had made them, and also that in carrying such sale or sales into execution, it should be lawful to the grantee and his foresaids to prorogate and adjourn the day of sale from time to time as they should think proper, previous advertisement of such adjournment being given in the newspapers above mentioned once weekly for at least three weeks; and as if the granter had bound and obliged himself and his foresaids to ratify, approve of, and confirm any sale or sales that should be made in consequence thereof and to grant absolute and irredeemable dispositions of the lands and others so to be sold to the purchaser or purchasers, their heirs and assignees, and to execute and deliver all other deeds and writings necessary for rendering their rights complete.

7. Any sale duly carried through in terms of this Act shall be as valid and effectual to the purchaser as if made by the granter of the security himself, and that whether the granter shall have died before or after such sale, and without the necessity of confirmation by him or his heirs, and notwithstanding that the party debtor in the security and in right of the lands at the time shall be in pupillarity or minority or subject to any legal incapacity: Provided always, that nothing herein contained shall be held to affect or prejudice the obligation of the granter and his heirs to execute, or the right of the creditor or purchaser to require the granter and his heirs to execute, any deed or deeds which, independently of this enactment, would at common law be necessary

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

for rendering the sale effectual, or otherwise completing in due form the titles of such purchaser.

8. The creditor, upon receipt of the price, shall be bound to hold count and reckoning therefor with the debtor and postponed creditor, if any such there be, and their heirs and assignees, or with any other party having interest, and to consign the surplus which may remain after deducting the debt secured, with the interest due thereon and penalties incurred, and whole expences attending such sale, and after paying all previous incumbrances and the expence of discharging the same, in one or other of the said banks, or in a branch of any such bank, in the joint names of the seller and purchaser, for behoof of the party or parties having best right thereto; and the particular bank in which such consignment is to be made shall be specified in the articles of roup.

9. Upon a sale being carried through in terms of this Act, and upon consignment of the surplus of the price, if any be, as aforesaid, the disposition by the creditor to the purchaser shall have the effect of completely disencumbering the lands and others sold of all securities and diligences posterior to the security of such creditor, as well as of the security and diligence of such creditor himself.

Editorial Information

- X1 The Act 10 & 11 Vict. c. 50 which was repealed by Titles to [Land Consolidation \(Scotland\) Act 1868 \(c. 101\)](#), s. 4, contained the following sections which are reproduced for the purpose of construing this Act

Modifications etc. (not altering text)

- C4 S. 20 excluded by [Conveyancing and Feudal Reform \(Scotland\) Act 1970 \(c. 35\)](#), s. 32, [Sch. 8 para. 6](#)
- C5 Functions of Keeper of the Record of Edictal Citations now exercisable by such clerks and officers of the Court of Session as may be appointed from time to time: [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\)](#), s. 8, S.R. & O. 1929/588 (Rev. XIX, p. 785: 1929, p. 1305) and [Public Records \(Scotland\) Act 1937 \(c. 43\)](#), s. 13

[^{F63}20A Certain transactions or events registrable in the Land Register of Scotland

- (1) A deed mentioned in subsection (2) which affects a lease registered in the Land Register of Scotland is registrable in that register.
- (2) The deed is one—
 - (a) terminating the lease,
 - (b) extending the duration of the lease,
 - (c) otherwise altering the terms of the lease.

Textual Amendments

- F63 Ss. 20A, 20B inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 52(2), 122, 123 (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

20B Effect of registration in the Land Register of Scotland

- (1) Registration in the Land Register of Scotland has the effect of—

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

- (a) vesting in the person registered as entitled to the lease a real right in and to the lease and in and to any right or pertinent, express or implied, forming part of the lease, subject only to the effect of any matter entered in that register so far as adverse to the entitlement,
 - (b) making any registered right or obligation relating to the registered lease a real right or obligation, and
 - (c) affecting any registered real right or obligation relating to the registered lease, in so far as the right or obligation is capable, under any enactment or rule of law, of being vested as a real right, of being made real or (as the case may be) of being affected as a real right.
- (2) Registration in the Land Register of Scotland is the only means—
- (a) whereby rights or obligations relating to a registered lease become real rights or obligations, or
 - (b) of affecting such real rights or obligations.
- (3) Subject to Part 9 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (rights to persons acquiring etc. in good faith), registration of an invalid deed confers no real effect.]

Textual Amendments

F63 Ss. 20A, 20B inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. [52\(2\)](#), [122](#), [123](#) (with s. [121](#), Sch. [4](#) paras. [13](#), [16](#)); S.S.I. 2014/127, art. 2

[^{F64}20C Disapplication of Leases Act 1449

The Leases Act 1449 (c.6) does not apply to a lease registrable under this Act and granted on or after the date on which—

- (a) the land to which the lease relates, or any part of that land, became land within an operational area (that is to say within an area in respect of which the provisions of the Land Registration (Scotland) Act 1979 (c.33) had come into operation), or
- (b) section 52 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (amendment of Registration of Leases (Scotland) Act 1857 (c.26)) comes into force.

Textual Amendments

F64 Ss. 20C-20E inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. [122](#), [123](#), [Sch. 2 para. 16](#) (with s. [121](#), Sch. [4](#) paras. [13](#), [16](#)); S.S.I. 2014/127, art. 2

20D Long fishing leases

This Act applies to a contract within the meaning of section 66 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15) (application of Leases Act 1449) as it does to a lease described in section 1 of this Act provided that the contract in question—

- (a) is for a period exceeding 20 years, or
- (b) includes an obligation such as is described in section 17 of this Act.

Changes to legislation: There are currently no known outstanding effects for the Registration of Leases (Scotland) Act 1857. (See end of Document for details)

Textual Amendments

F64 Ss. 20C-20E inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 16](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2

20E The expression “the register”

Except where the context otherwise requires, in this Act—

- (a) the expression “the register” is to be construed as including a reference to the Land Register of Scotland, and
- (b) analogous expressions are to be construed accordingly.]

Textual Amendments

F64 Ss. 20C-20E inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, [Sch. 2 para. 16](#) (with s. 121, [Sch. 4 paras. 13, 16](#)); S.S.I. 2014/127, art. 2

21

This Act may be cited for all purposes as “The Registration of Leases (Scotland) Act, 1857.”

Changes to legislation:

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