



Conveyancing (Scotland) Act 1874

1874 CHAPTER 94

64 Section 127 of last-recited Act repealed. Executor nominate or disponee mortis causa may complete title by notarial instrument

Section one hundred and twenty-seven of the last-recited Act is hereby repealed, and in place, thereof the following words shall be deemed and be taken to be the one hundred and twenty-seventh section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-seventh section thereof had been originally expressed in the following words, viz.:

Upon the death of any creditor in right of an heritable security constituted by infeftment as aforesaid from which executors shall not have been excluded, and who shall die leaving a testamentary or mortis causa deed or writing naming executors, or disposing or bequeathing his moveable estate, or disposing or bequeathing the security, it shall be competent for the executors, duly confirmed, or for the disponees, or for the legatees, as the case may be, to complete a title thereto by expeding and recording in the appropriate register of sasines an instrument under the hand of a notary public in the form or as nearly as may be in the form of Schedule (KK.) hereto annexed; and when such executors or disponees, or legatees, being more than one, shall not be entitled to such security wholly for their own beneficial interest, it shall be competent to take such notarial instrument in favour of such executors or disponees or legatees, and the survivors and survivor of them, unless such a destination be expressly "excluded by the terms of the deed or writing; and where any creditor has died or shall die before the commencement of this Act, in right of such an heritable security, and leaving a mortis causa conveyance thereof, or of his heritable estate generally, or where any creditor shall die thereafter in right of such an heritable security from which executors shall have been excluded and leaving such a mortis causa conveyance, or a, testamentary deed or writing within the meaning of the twentieth section of this Act, it shall be competent to the grantee or legatee under such mortis causa conveyance or testamentary deed or writing to complete a title to the security by notarial instrument as aforesaid; and on such instrument being so recorded the executors, disponees, legatees, or grantees, as the case may be, in whose favour such instrument has been expedite, shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself.