



# Infertment Act 1845

## 1845 CHAPTER 35

### **How Sasine to be given infuture.**

That from and after the First Day of *October* in the present Year One thousand eight hundred and forty-five it shall not be necessary to proceed to the Lands in which Sasine is to be given, or to perform any Act of infertment thereon, but Sasine shall be effectually given therein and infertment obtained by producing to a Notary Public the Warrants of Sasine and relative Writs, as now in use to be produced at taking infertment, and by expeding and recording in the General Register of Sasines, or the Particular Register of Sasines applicable to the Lands contained in the Warrant of infertment, in manner herein-after directed, an Instrument of Sasine, setting forth that Sasine had been' given in the said Lands, and subscribed by the said Notary Public and Witnesses, according to the Form and as nearly as may be in the Terms of Schedule (B.) hereto annexed; and such Form of infertment shall be effectual, whether the Lands lie contiguous or discontinuous, or are held by the same or by different Titles, or of One or more Superiors, or whether the Deed entitling the Party to obtain infertment be dated prior or subsequent to the present Act, or whether the Precept of Sasine therein be in the Form heretofore in use, or in the Form authorized by the present Act.

### **II Instruments of Sasine to be entered and recorded.**

And be it enacted, That from and after the said First Day of *October* every such Instrument of Sasine shall be recorded in manner heretofore in use with regard to Instruments of Sasine, and the Keepers of the Registers of Sasines are hereby required to receive and register the same accordingly; and such Instrument of Sasine, being so recorded, shall in, all respects have the same Effect as if Sasine had been taken and an Instrument of Sasine duly recorded according to the Law and Practice heretofore in use.

### **III May be recorded at any Time, but the Date of the Presentment to be the Date of the Infertment.**

And be it enacted, That from and after the said First Day of *October* every such Instrument of Sasine may be competently and effectually recorded at any Time during the Life of the Party in whose Favour such Instrument has been expedite, but the Date of

Presentment and Entry set forth on any such Instrument by the Keeper of the Record shall be taken to be the Date of the Instrument of Sasine and infefment.

**IV In case of Error or Defect, another Instrument may be recorded.**

And be it enacted, That in case of any Error or Defect in any such Instrument of Sasine, or in the recording thereof, it shall be competent of new to make and record an Instrument of Sasine, which shall have Effect from the Date of the recording thereof, as if no previous Instrument or Instruments had been made or recorded.

**V Forms of the Precept and Instrument of Sasine.**

And be it enacted, That in all Deeds containing a Precept of Sasine such Precept may be in the Form and as nearly as may be in the Terms of the Schedule (A.) hereto annexed, and the Instrument of Sasine on any such Deed shall be in the Form and as nearly as may be in the Terms of the said Schedule (B.) hereto annexed, which Precepts and Instruments of Sasine respectively shall be as valid and effectual as the Precepts and Instruments of Sasine heretofore in use.

**VI Precept from Chancery to be issued to Notaries upon Payment of Re-tour Duties and Casualties. Fees to be paid Sheriffs and Sheriff Clerks for a limited Period.**

And be it enacted, That where infefment is to be completed under' a Precept issuing from the Office of Chancery, which Precept has hitherto been directed to the Sheriff of the County in which the Lands or some Part thereof lie, such Precept shall, after the said First Bay of *October*, be addressed to any Notary Public : Provided always, that such Precept shall be null and void unless an Instrument of Sasine thereon be recorded in the General Register of Sasines, or the Register of Sasines applicable to the Lands therein contained, before the first Term of *Whitsunday* or *Martinmas* posterior to the Pate of such Precept, without prejudice to a new Precept being issued as heretofore, and that before such Precept is issued from Chancery the Retour Duties and Casualties due to the Crown shall be paid to the proper Officer there, who shall account to the Exchequer for the same in like Manner as the Sheriffs were wont to do 5 and the same Officer shall also receive at the same Time certain Fees on behalf of the Sheriffs, Sheriffs Substitute, and Sheriff Clerks of the Counties in which the Lands lie, and on which Sasine would have been taken according to the Form heretofore in use, and to whom such Officer shall account for the same, in place of the Fees which they have heretofore been in use to receive, but such Fees shall be paid only during the Existence of the respective Interests of the present Sheriffs, Sheriffs Substitute, and Sheriff Clerks in their respective Offices ; and the Lords of Council and Session are hereby authorized and required, by an Act or Acts of Sederunt, to regulate and determine the Amount of the Fees to be so received on behalf of each Sheriff, Sheriff Substitute, and Sheriff Clerk, having due Regard to the existing Interest of each.

**VII Forms of Burgage Sasines to continue as at present.**

And whereas it is not hereby intended to make any Alterations in the Law with regard to Instruments of Sasine and Instruments of Cognition, and Sasine of Subjects held Burgage, or by any similar Mode of Tenure known and effectual in Law, excepting as after specified; be it enacted, That the Forms and Modes of Registration of these Instruments shall continue the same as at present, excepting only that the same shall be valid and effectual, if attested by the Town Clerk as a Notary, without the Addition

of his Docquet, and by the Witnesses, and that the Delivery of Symbols may lawfully be given, either on the Ground of the Subjects as heretofore, or within the Council Chamber of the Burgh by Delivery of a Pen.

**VIII Instruments of Resignation ad remanentiam regulated.**

And be it enacted, That Instruments of Resignation ad remanentiam shall be written in the same Form, as at present, but it shall be unnecessary for the Notary Public to adhibit his long Docquet to such Instruments ; and further, that all Resignations ad remanentiam may be accepted by the Superior himself, or on his Behalf, by his known Agent for the Time, or by any Person having a formal Commission for that Purpose.

**IX Instruments of Resignation in favorem abolished.**

And whereas Instruments of Resignation in favorem, as separate Instruments intended merely to connect the Procuratory with the Charter of Resignation, are now rarely used in Practice, and are wholly unnecessary; be it enacted, That from and after the said First Day of *October* the same shall be and are hereby abolished: Provided always, that the Deduction of Titles required by the Act of the Parliament of *Scotland* made in the Year One thousand six hundred and ninety-three, intituled *Act anent Procuratories of Resignation and Precepts of Seisin*, to be made in such Instruments, shall from and after the Date of this Act be made in the Charter of Resignation.

**X Interpretation of Act.**

And be it enacted, That in the Construction of this Act the Words " Notary Public " shall be held to mean a Notary Public in *Scotland* duly admitted and practising there; the Word " Deed " shall be held to include any Warrant or Document upon which Sasine may follow; and the Word " Lands, " or the Words " Heritable Property," shall be held to include Houses, Fishings, Mills, Minerals, Patronages, Teinds, and in general all Heritable Subjects or Rights in which infefment may be taken; and all Words in the Singular Number shall be held to include a Plurality of Persons or Things; and in general this Act shall be construed in the most liberal Manner, so as to accomplish the Objects thereby intended.

**XI Alteration of Act.**

And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.