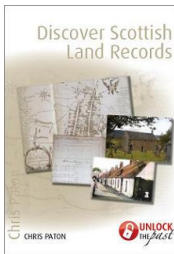


Scottish House and Land Records (Chris Paton)**Ottawa 15 SEP 2012**

Scottish land and house history, as well as inheritance, is more fully explored in my book *Discover Scottish Land Records*, published by Unlock the Past, available from www.gould.com.au/Discover-Scottish-Land-Records-p/utp0283.htm.

Records of occupancy: Getting started into property research is easy, as a lot of familiar resources can help us to place a person at a property at a given time.

Vital/census records www.scotlandsppeople.gov.uk for images – census transcripts at Ancestry, FindmyPast and FreeCEN
 Street directories www.nls.uk or www.archive.org
 Phone books www.ancestry.co.uk
 Electoral rolls local libraries/archives; National Library of Scotland; British Library (currently being digitised, expect online abt Feb 2013)

Maps: The National Library of Scotland collection at www.nls.uk/maps/index.html holds over 44,000 digitised images, including town maps from 1580 onwards, Timothy Pont's 16th Century maps and detailed Ordnance Survey maps. The RCAHMS website at www.rcahms.gov.uk contains the equally useful Canmore database, which provides all sorts of information on properties, including some old photos and diagrams. Much of this information is now also accessible on the ScotlandsPlaces website at www.scotlandspplaces.gov.uk, which also provides free to view 18th century tax records for every county, and additional resources.

Land tenure: Land ownership was very different in Scotland compared to the rest of the UK, because Scottish transactions were based on the concept of **feudalism** up to 2004 (long abandoned in England and Wales in the Middle Ages). This concerned a series of relationships between 'vassals' and 'superiors'. The monarch held Scotland on behalf of God. To manage his land, large tracts were given out in 'feus' to various high ranking nobles or institutions, in return for an annual payment called a **feu duty**, after which the two parties were said to be **infert**. The agreement was hereditary and both it and the land could be passed on to an heir. As the monarch's vassals, these nobles and institutions could also become superiors themselves (known as **subject superiors**) by further dividing the land into smaller portions for their own vassals, through a process called **subinfeudation**. This carried on repeatedly down a 'feudal pyramid', to the level of merchants and lesser nobles with much smaller holdings.

Charters: Property transactions were recorded in charters, which stipulated various conditions between the vassal and superior, including the **feu duty** and any penalty conditions for lack of payment (the most serious of which was **reversion**, when land was returned to the superior). Strict directions were also often issued to a vassal about the use of land, for example, if a property was to be built, the superior might dictate that it should blend in with the surrounding buildings in a particular manner. Such Charters exist in many forms, such as **Charters of Feu**, **Charters of Resignation**, **Charters of Confirmation** and **Charters of Novodamus**, all drawn up for different

reasons, but essentially carrying similar information. At the end of a charter, the superior would give an instruction for an **Instrument of Sasine** to be drawn up, a legal device to allow the transaction to be recorded in the **Register of Sasines**, with **sasine** ('sayzin') being the act of taking possession of the land. Whilst charters may be difficult to locate, the Registers of Sasines are considerably easier to research.

Other forms of tenure: Rather than through feudalism, church lands were held under **allodial** tenure, meaning they were owned outright, with a similar system operating in the Orkney and Shetland islands (known as **udal** tenure). There were other regional variations. **Kindly tenants** were those who held land by perpetual hereditary lease from the Crown (in Dumfriesshire's Four Towns of Lochmaben). **Tenants at will** held land on which they paid ground rent only, the land being occupied through custom and usage (in small areas of Lanarkshire, Aberdeenshire, Moray, Ross & Cromarty). A form of tenure known as **leasehold**, where a right to occupy land for a set period also existed (Lanarkshire, Perthshire and the Highlands), whilst **crofters** had their own unique arrangements in the Highlands and the Western Isles. Check the 1884 Napier Commission report at www.highland-elibrary.com/7.html for crofting ancestors and see <http://tinyurl.com/3zr8ylw> for more on non-feudal holdings.

Sasines: All property transactions (and instances where land was put up as security for loans) have been recorded in various Registers of Sasines from as early as 1599 in some counties, though mostly from 1617 onwards. Until 1868 these were recorded in **burgh registers** for the country's royal burghs (mostly unindexed), in **particular registers** for individual counties across the country; or in a **general register** based in Edinburgh, for transactions across most of Scotland (excluding the three Lothian counties, and including property based across two or more counties). Whilst most registers are today held at the National Records of Scotland, pre-1809 burgh registers for Glasgow, Aberdeen and Dundee are still held in their respective local city archives, which can again be sourced through SCAN. The NRS has a useful page on its holdings at www.nas.gov.uk/guides/sasines.asp.

Digitised abridgements for the particular and general registers from 1781-1868 have been made available for view at the NRS. They can be searched by surname or place name, and will usually give enough information to let you know who granted a piece of land, the name of the recipient, and the arrangement by which it was transferred. However, the original sasine itself can also be ordered up, and can provide further information such as a description of the land in question – useful for noting the exact boundaries of a property, for example. A list of printed indexes for registers prior to 1781 is found at www.nas.gov.uk/guides/sasines.asp. The Genhound website at www.genhound.com contains indexes to many pre-1781 particular registers, whilst many sasine records can also be ordered up through the FamilySearch catalogue (www.familysearch.org) on microfilm and viewed at a Family History Centre.

In 1868 the General Register was reorganised into county based divisions, and the Particular Registers abolished (though burgh registers continued for some time after). An index to entries within this new General Register can be consulted at the NRS.

Registers of Scotland: From 1979, a newly created 'Land Register', maintained by Registers of Scotland (www.ros.gov.uk), has in turn been slowly replacing the General Register. In the old system, properties were identified within charters and

sasines by a physical description of which other properties bordered it in all sides. In the new Land Register, they are now pinpointed using Ordnance Survey data. From 1870, a series of **search sheets** was created for each property listed in the old General Registers, and those from 1875 to 1993 have been digitised and can be consulted at the Registers of Scotland offices in Glasgow or Edinburgh, for a small fee. They are invaluable, giving long lists of transactions for a property from the present day back to 1875. The ROS does offer an online research service for this.

Recent transactions: Since the year 2000, basic details of transactions are also freely available on websites such as www.ourproperty.co.uk, which will name recent applicants and granters for house purchases. Records of planning applications and other notices affecting properties can also be found in newspapers, and in titles such as the *Edinburgh Gazette*, available for free at www.gazettes-online.co.uk.

Inheritance: Inheritance was another way through which land could be conveyed, but Scottish land and property could not be bequeathed in a will until 1868. Prior to this the inheritance rules of primogeniture applied. Before heirs could legally take full possession of a property, they had to have the fact that they were heirs recognised by the superior to whom they were about to become the vassal. Many just moved in as ‘apparent heirs’ without sorting out the paperwork, only to realise years later that they needed the document when seeking to sell the property on, whilst others argued about who had the legal right to inherit in the first place! As such, don’t always expect to find the relevant documents immediately after the previous owner’s death.

There were two ways to be recognised as an heir, dependent on where the superiority lay. If the Crown was the direct superior, the prospective heir would have to go before a jury of local landowners to have the right to inherit confirmed. The jury would deliberate and then return or **retour** its findings to the Royal Chancery in Edinburgh, with a copy issued to the heir. These recorded **Services of Heirs** were mainly written in Latin until 1847. Records from 1530-1699 were indexed as the *Inquisitionum ad Capellam Regis Retornatarum Abbreviatio*, available online at Google Books in 3 volumes, or at the NRS. From 1700 you need to consult the decennial *Indexes to the Services of Heirs* at the NRS, but again, the index from 1700-1859 is available on CD. After this the indexes are annual. The process continued until 1964, but at this point most land was being conveyed through wills, making the process virtually redundant. The records usually show genealogical relationships identifying from whom the property was inherited, and also contain terms such as ‘Heir General’ (a person succeeding by force of law), or ‘Heirs-Portioners’ (usually women who jointly inherited a property if there was no male successor), which can be equally revealing genealogically. It is important to note that some Services were never retoured from sheriff and burgh courts, but may still be recorded in their registers, whilst courts for areas known as ‘regalities’ were never required to send them to the Royal Chancery in the first place – so you may have to dig a little deeper in local court records.

If the land was controlled by a subject superior lower down the chain, rather than the Crown, an heir could instead make do with a document known as a **Precept of Clare Constat**, which showed that the subject superior clearly recognised the heir’s right to inherit. These can be held anywhere (archives, private hands etc), but a sasine will always note if one was issued. If somebody inherited via a precept of clare constat, they could also go through the retours process to be extra sure, but it was not required.

Occasionally you might occasionally come across mention of the words **tailzie** within the records of wealthier families. It was actually possible for a landowner to dictate the course of his land's disposal long after his death by creating a deed called a tailzie, through which he could lay down a series of conditions that had to be adhered to. Tailzies can be extremely useful in identifying entire families, as they would list the name of the person to whom the land should go upon the death of the present incumbent, but also suggest alternative lines should that person die before being able to inherit. If the inheritance should fall onto a daughter, a condition could be set whereby she could only inherit the land if she first married somebody with the same surname as the creator of the tailzie, or somebody who would be willing to take on that name. In addition, that husband would also have to assume the set of Arms inherited by his wife. This would allow the identity of that family, and more importantly, the political weight of that family name, to remain undiminished in an area. The Register of Tailzies, kept from 1688, is located at the NRS (RT1, with an index catalogued under RT3/1-3). Land could be removed from a tailzie, or **disentailed**, from 1848 onwards, the details of which are also included in the register.

Rents and valuations: Feuars could rent property out on leases, with many properties in older times let out for a year at a time, on longer set leases, or via **liferent**, for the duration in which a partner, his spouse and child naturally lived for. Estate papers are your likeliest source for finding evidence of rentals for the labouring classes. The first thing that you need to identify is the identity of the local feudal superior, i.e. the landowner. The easiest way is to consult gazetteers such as the Statistical Accounts at the University of Edinburgh's EDINA website (www.edina.ac.uk/stat-acc-scot), which will list the principal landowners in the 1790s and the 1840s. Once you know who owned the land, the next job is to then find if any estate records exist. These can be located absolutely anywhere in Scotland (or beyond), so may take some finding.

Again, the NRS holds many records from estates amongst its Gifts and Deposits collection (GD), with particularly good examples including the Breadalbane Muniments (GD112) and the Grandtully Muniments (GD237) for Perthshire, and the Duke of Gordon's papers (GD44) for his Aberdeenshire lands. Other records of use can be found with the RH9 and RH11 series and the CR series (Commissioners of Crown Estates). Beyond the NAS, you may find estate papers held at county records offices, or still in private hands. To locate these you will need to use the SCAN catalogue (www.scan.org.uk/catalogue), that of the National Register of Archives for Scotland (www.nas.gov.uk/onlineregister), or its English equivalent, the NRA (www.nationalarchives.gov.uk/nra).

A useful set of records which can be of immense help for more recent years is the annual Valuation Rolls collated from 1855-1987, which recorded annual rents worth more than £4 in value, along with the sitting tenants and their occupations, the owners, and any feu duties due. The rolls are held both in local county archives and at the NRS, where a copy was legally required to be deposited, and have now been digitised. The 1915 rolls for the whole of Scotland are now on ScotlandsPeople, with earlier records to be released at mid-decade intervals (1855, 1865 etc) in due course.