

LAND REGISTRATION ETC. (SCOTLAND) ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Registration

Applications for registration

Section 23: Conditions of registration: transfer of unregistered plot

87. This section provides the special conditions for what is known as an application for “first registration”. A first registration is where an unregistered property is taken into the Land Register for the first time. By virtue of the closure of the General Register of Sasines to the recording of various deeds under section 48, first registration will be induced not only when there is a transfer for value (which is the existing law, replaced by the Act), but for all transfers.
88. Subsection (1) provides for the additional conditions that apply to a first registration. Subsection (1)(c) requires the application to include information to enable the Keeper to make an accurate entry on the cadastral map in relation to the cadastral unit created as a consequence of an accepted application.
89. Subsection (2) provides an exception to these conditions for flats in tenements where the Keeper chooses, under section 16, to represent the tenement as a site of single extent.
90. Subsection (3) is an exception to the exception in subsection (2) and requires any exclusive pertinent of the plot of land, such as a coal cellar or parking space pertaining to one of the flats, to be sufficiently described (because the pertinent would still need to be mapped by the Keeper).
91. Subsection (4) clarifies that the applicant is not required to provide a plan or description of certain servitudes affecting the plot such as pipeline servitudes (subsection (4)(a)) or servitudes created other than by registration, e.g. by prescription (subsection 4(b)).