

LAND REGISTRATION ETC. (SCOTLAND) ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Advance Notices

Section 59: Effect of advance notice: registered deeds

161. This section sets out the effect of an advance notice on deeds registered in the Land Register. Subsections (2) and (3) give the principal effect. Where a deed, Y, is registered after another deed, Z, and deed Y is protected by an advance notice, registration of deed Y is to be completed as if deed Z did not exist. When deed Y has been duly registered, deed Z should then be “re-registered” for any effect it may have. In many circumstances Deed Z will be rejected as the person granting it is no longer entitled to do so. However if, for example, deeds Y and Z were both standard securities, deed Z could still be registered but would simply rank lower than deed Y. In the circumstances where deed Y is not, in fact, registered within the protected period, deed Z will be registered normally and have its full effect.
162. The section therefore prioritises deed Y over deed Z. The grantee of deed Z is not disadvantaged as the grantee will know of the existence and potential effect of the advance notice in favour of deed Y as it is on the Register.