

LAND REGISTRATION ETC. (SCOTLAND) ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Inaccuracies in the Register

Section 65: Meaning of “inaccuracy”

168. This section creates a new definition of inaccuracy in relation to the entries on the Land Register. Subsection (1) sets out when a title sheet is inaccurate. It may be inaccurate in two broad ways: because it says something that is wrong, or it does not say something when it should.
169. Subsection (2) sets out when the cadastral map is inaccurate. This broadly mirrors subsection (1). The effect of subsection (3) is that the cadastral map is considered accurate as long as the depictions in it are within the tolerances or Ordnance Survey mapping specifications for the base map. The Ordnance Map, by virtue of section 11(6), is the default base map.
170. The effect of subsection (4)(a) is that where an entry in the Land Register proceeds from a deed that was voidable and has since been reduced, the decree of reduction is to be given effect to by registration of the decree, and not by rectification. In other words, there is no inaccuracy: there is simply a later registration that changes the register. This applies only to voidable deeds. Where an entry in the Land Register proceeds from a void deed, the register is to that extent inaccurate from the outset, and should be rectified.
171. The effect of subsection (4)(b) is that where an entry in the Land Register proceeds from a deed that has been rectified under the 1985 Act, the register does not thereby become inaccurate, but instead the rectified deed is to be given effect to by registration.

Section 66: Shifting boundaries

172. This section provides that adjacent proprietors bounded by a natural water feature may, by registered agreement, provide that subsequent change to the physical boundary by the process of alluvion (i.e. gradual, imperceptible and non-temporary change to the water feature over time) should have no effect on their title boundary. In such circumstances, alluvion will not make the register inaccurate. Subsection (3) makes this clear.