

Draft Order laid before the Scottish Parliament under section 116(3)(l) of the Land Registration etc. (Scotland) Act 2012 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

REGISTERS AND RECORDS

**The Registers of Scotland (Voluntary Registration,
Amendment of Fees, etc.) Order 2015**

Made - - - - 2015

Coming into force—

articles 2, 3 and 4(5) 1st April 2016

remainder 30th June 2015

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 27(6), 48(2), 110(1) and (2) and 116(1) of the Land Registration etc. (Scotland) Act 2012⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 27(7) of that Act, the Scottish Ministers have consulted the Keeper of the Registers of Scotland.

In accordance with section 48(10) of that Act, the Scottish Ministers have consulted the Keeper and such other persons appearing to have an interest in the closure of the Register of Sasines to the recording of deeds as the Scottish Ministers consider appropriate.

In accordance with section 110(3) of that Act, the Scottish Ministers have consulted the Keeper about (among other things), the expenses incurred by the Keeper in relation to the matters specified in section 110(3)(a) and (b) of that Act and the desirability of encouraging registering, recording and entering in any register under the management and control of the Keeper.

In accordance with section 116(3)(l) of the Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament⁽²⁾.

Citation and commencement

1.—(1) This Order may be cited as the Registers of Scotland (Voluntary Registration, Amendment of Fees, etc.) Order 2015.

(1) 2012 asp 5, amended by S.I. 2013/1575, the Co-operative and Community Benefit Societies Act 2014 (c. 14), section 151(4) and Schedule 7, paragraph 1 and S.S.I. 2014/190 and S.S.I. 2014/346.

(2) The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

- (2) With the exception of articles 2, 3 and 4(5), this Order comes into force on 30th June 2015.
 (3) Articles 2, 3 and 4(5) come into force on 1st April 2016.

Land Registration etc. (Scotland) Act 2012 – repeal of Keeper’s discretion to refuse applications for voluntary registration

2. Section 27(3)(b) of the Land Registration etc. (Scotland) Act 2012 is repealed.

Closure of the Register of Sasines to standard securities

3. The day prescribed for the purposes of section 48(2) of the Land Registration etc. (Scotland) Act 2012 is 1st April 2016.

Amendment of the Registers of Scotland (Fees) Order 2014

- 4.—(1) Schedule 1 to the Registers of Scotland (Fees Order) 2014(3) is amended as follows.

(2) For paragraph 1(1) to (3) (fees for applications to register deeds, other than heritable securities, and voluntary registration) substitute—

“(1) Where an application mentioned in sub-paragraph (2) is made, subject to sub-paragraphs (4) to (7), the fee is calculated on the—

- (a) amount of the consideration paid; or
- (b) value of the plot of land,

whichever is the greater.

(2) This sub-paragraph applies to an application for registration of—

- (a) a disposition, a notice of title, a lease or an assignation of lease; or
- (b) an unregistered plot of land by virtue of section 27(1) of the Act.

(3) Where an application mentioned in sub-paragraph (2) is made, subject to sub-paragraphs (8) to (11), the fee is at the rates shown in the Table of Fees in Part 3 of this Schedule—

- (a) for an application mentioned in sub-paragraph (2)(a)-
 - (i) in column 2 of that Table; or
 - (ii) where the application may be, and is, made using the ARTL system, in column 3 of that Table; or
- (b) for an application mentioned in sub-paragraph (2)(b), in column 4 of that Table.”.

(3) In paragraph 1(9) for “Paragraph (8)” substitute “sub-paragraph (8)”.

(4) After paragraph 1(9), insert—

“(10) Where the application is to register a disposition relating to a registered plot of land—

- (a) for the sole purpose of evacuating a survivorship destination; and
- (b) the name and designation of the proprietor in the proprietorship section remains the same,

the fee is £60 for each title sheet affected.”.

(5) After paragraph 1(10) so inserted, insert—

“(11) Where an application mentioned in sub-paragraph (2)(b) is made which is—

- (a) entered in the application record on the same date as an application to register a standard security; and
- (b) the standard security relates to the whole extent of that plot of land,
- no fee is payable in respect of the application mentioned in sub-paragraph (2)(b).”.

(6) In paragraph 3 (related fees and services)—

- (a) in sub-paragraph (1), for “Where” substitute “Subject to sub-paragraph (1A), where”; and
- (b) after sub-paragraph (1), insert—

“(1A) Sub-paragraph (1) does not apply to an application which is rejected or withdrawn for the sole reason that another application in respect of the same land or title number, to which paragraph (1) does apply, has been rejected or withdrawn.”.

(7) For the Table of Fees in Part 3, substitute—

<i>“Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Consideration paid or value £</i>	<i>Fee £</i>	<i>ARTL Fee £</i>	<i>Voluntary registration Fee £</i>
Not exceeding 50,000	60	50	45
100,000	120	90	90
150,000	240	180	180
200,000	360	270	270
300,000	480	360	360
500,000	600	450	450
700,000	720	540	540
1,000,000	840	660	630
2,000,000	1,000	800	750
3,000,000	3,000	2,500	2,250
5,000,000	5,000	4,500	3,750
Exceeding 5,000,000	7,500	7,000	5,625”

(8) In Part 7 (fees for access to registers and information made available)—

- (a) in the first 2 entries, in column 2, after “plain copy” insert “or copy of search sheet or minute”; and
- (b) before the first entry for the Crofting Register insert—

“Register of Sasines	Copy of search sheet where request in writing provides search sheet number	£16 plus VAT
Register of Inhibitions	Plain copy of document where request in writing provides minute number	£16 plus VAT
Register of Deeds and Probative Writs in the Books of Council and Session	Extract of document where request in writing provides minute number	£30 plus VAT

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Registers of Scotland (Voluntary Registration, Amendment of Fees, etc.) Order 2015 No. 265*

Register of Deeds and Probative Writs in the Books of Council and Session	Plain copy of document where request in writing provides minute number	£16 plus VAT”
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St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision related to voluntary registration under section 27 of the Land Registration etc. (Scotland) Act 2012 (“the Act”). Most of the provisions in article 4 come into force on 30th June 2015. Articles 2, 3 and 4(5) come into force on 1st April 2016.

Article 2 removes the discretion of the Keeper of the Registers of Scotland to refuse voluntary applications by repealing section 27(3)(b) of the Act.

Article 3 prescribes the day on and after which the recording of a standard security in the Register of Sasines has no effect. Standard securities over plots of land not yet registered in the Land Register become registrable on the registration in the Land Register of the underlying plot of land.

Article 4 amends Parts 1 and 7 of the Schedule to the Registers of Scotland (Fees) Order 2014:—

- Paragraph 1(1) to (3) are replaced to clarify the types of deeds to which the fees relate, and to reduce for voluntary registration, by 25% across each range of consideration paid or value, the fee set out in column 2 of the Table of Fees in Part 1 of the Schedule. The Table of Fees is replaced to add an additional column with the discounted rates for voluntary registration.
- A disposition which only evacuates a survivorship destination is to be charged at the fee of £60 for each title sheet affected instead of the fee by value set out in those columns (inserted sub-paragraph (10)).
- The fee for voluntary registration is removed altogether where the registration is of even date with a standard security relating wholly to the same plot of land (inserted sub-paragraph (11)).
- The additional rejection and withdrawal fee of £30 is removed from applications rejected or withdrawn only because they relate to other such applications for which such a fee is paid, e.g. a standard security rejected if the disposition it relates to is rejected.
- Amendments are made to Part 7 in respect of fees charged for copy documents, to add new fees of £16 plus VAT for a copy search in the Register of Sasines, or a plain copy from the Register of Inhibitions or Register of Deeds and Probative Writs in the Books of Council and Session, and £30 plus VAT for an extract from the latter register.

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Registers of Scotland, Meadowbank House, 153 London Road, Edinburgh EH8 7AU.