

Draft Order laid before the Scottish Parliament under section 116(3)(k) and 116(4)(b) of the Land Registration etc. (Scotland) Act 2012 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

**ELECTRONIC COMMUNICATIONS
LAND REGISTRATION
REGISTERS AND RECORDS**

The Registers of Scotland (Information and Access,
etc.) Miscellaneous Amendment Order 2022

Made - - - - 2022

Coming into force - - 1st October 2022

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 107(1) and 117(1) of the Land Registration etc. (Scotland) Act 2012⁽¹⁾, and all other powers enabling them to do so.

In accordance with sections 116(3)(k) and 116(4)(b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Registers of Scotland (Information and Access, etc.) Miscellaneous Amendment Order 2022 and comes into force on 1 October 2022.

Extracts of deeds

2. After article 4 of the Registers of Scotland (Information and Access) Order 2014⁽²⁾ (public access to a register under the management and control of the Keeper) insert—

“Extracts of deeds registered in the Books of Council and Session

5.—(1) Where a person applies to the Keeper for an extract of a deed registered in the Books of Council and Session the Keeper must issue the extract, if—

(1) 2012 asp 5.
(2) S.S.I. 2014/189.

- (a) such fee as is payable⁽³⁾ for issuing it is paid, or
 - (b) arrangements satisfactory to the Keeper are made for payment of that fee.
- (2) In the case of a deed registered in the Books of Council and Session in accordance with regulation 8 of the Electronic Documents (Scotland) Regulations 2014⁽⁴⁾ (registration of other electronic documents), the Keeper—
- (a) must issue the extract as an electronic document, but
 - (b) may, if the applicant requests that it be issued as a paper document, issue the extract in that form instead.
- (3) In all other cases, the Keeper—
- (a) must issue the extract as a paper document, but
 - (b) may, if the applicant requests that it be issued as an electronic document, issue the extract in that form instead.

Extracts of deeds registered in the Register of Sasines

6. Where a person applies to the Keeper for an extract of a deed registered in the Register of Sasines, the Keeper may issue the extract as an electronic document if (and only if) the applicant requests that it be issued in that form.”.

Writs Execution (Scotland) Act 1877

3.—(1) The Writs Execution (Scotland) Act 1877⁽⁵⁾ is amended in accordance with paragraphs (2) and (3).

(2) In section 5 (extracts of deeds registered in the Books of Council and Session, and Register of Sasines)—

- (a) for “be impressed with” substitute “bear”,
- (b) omit “to be kept in the respective offices”.

(3) In section 7 (extracts and transmission of records of Books of Council and Session)—

- (a) omit “, in terms of the twelfth section of the Public Records (Scotland) Act 1809,”,
- (b) for “be impressed with” substitute “bear”,
- (c) omit “to be kept in the office”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(3) Under the Registers of Scotland (Fees) Order 2014, schedule 1, Parts 4 and 7 (S.S.I. 2014/188) amended by S.S.I. 2021/139.

(4) S.S.I. 2014/83 relevantly amended by S.S.I. 2022/65.

(5) 1877 c. 40. The functions of Keeper of the General Register of Sasines and of the Lord Clerk Register as Keeper of the Records, Registers and Rolls for Scotland are now exercisable by the Keeper of the Registers of Scotland by virtue of the Lord Clerk Register (Scotland) Act 1879 (c. 44), section 6; the Reorganisation of Offices (Scotland) Act 1928 (c. 34), section 5 and the Public Registers and Records (Scotland) Act 1948 (c. 57), section 1(2). Section 7 was amended by the Conveyancing (Scotland) Act 1924 (c. 57), section 10(7).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the form in which extracts of deeds registered in the Books of Council and Session and in the Register of Sasines are to be issued.

Article 2 amends the Registers of Scotland (Information and Access) Order 2014.

- New article 5 provides that, upon payment of the appropriate fee or appropriate arrangements for payment of such fee, an extract of a deed registered in the Books of Council and Session must be issued by the Keeper of the Registers of Scotland (“the Keeper”) as a paper document. This is unless the deed was an electronic document registered in accordance with regulation 8 of the Electronic Documents (Scotland) Regulations 2014, in which case the extract must be issued by the Keeper as an electronic document. The Keeper may issue the extract in a different form (as an electronic document instead of a paper document or a paper document instead of an electronic document) if this is requested by the person applying for the extract.
- New article 6 provides that the Keeper may issue an extract of a deed registered in the Register of Sasines as an electronic document if this is requested by the person applying for the extract.

Article 3 makes clarificatory and consequential amendments to update sections 5 and 7 of the Writs Execution (Scotland) Act 1877.