
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to bringing into force Part 10 of, and schedule 3 to, the Land Registration etc. (Scotland) Act 2012 (“the 2012 Act”) on electronic documents, electronic conveyancing and electronic registration. Schedule 3 makes consequential amendments to the Requirements of Writing (Scotland) Act 1995 (“the 1995 Act”) in relation to bringing electronic documents into operation.

Article 2(1)(a) and Part 1 of the Schedule bring into force, on 22nd March 2014 for the limited purpose of making regulations, section 97 of the 2012 Act on the requirements for electronic documents for contracts, obligations, trusts and conveyances (including in relation to real rights in land) to be treated as valid and authenticated under the 1995 Act. Sections 99 and 100 of the 2012 Act on automated registration and the power to enable electronic registration are also commenced.

Article 2(1)(b) and Part 2 of the Schedule bring into force, on 11th May 2014, section 97 and parts of sections 96 and 98 of, and schedule 3 to, the 2012 Act except for the purposes of any will, testamentary disposition and settlement or codicil and inserting section 9G(6) into the 1995 Act. From that date, electronic documents by virtue of the provisions under the 2012 Act can satisfy those requirements of writing.

Article 2(1)(c) and Part 3 of the Schedule appoint the “designated day” under section 122 of the 2012 Act as the day for the coming into force of Part 10 of the 2012 Act for all other purposes except for the purposes of any will, testamentary disposition and settlement or codicil and inserting section 9G(6) into the 1995 Act.

The transitional provisions in article 3 maintain the Automated Registration of Title to Land (ARTL) system under existing provision and directions until the Scottish Ministers replace that system on the designated day under section 99 of the 2012 Act. Article 3(2) and (3) provides for alternative classes of “electronic document” under the 1995 Act for the transitional period from 11th May 2014 to the designated day, to cover both electronic documents within the ARTL system and electronic documents under the provision added to the 1995 Act by the 2012 Act respectively. For that period article 3(4) supplies a definition of traditional documents, and article 4 modifies certain references in the 1995 Act to subscription and signing in relation to electronic documents (prior to the making of regulations under section 9E(1)(b) of the 1995 Act).

The Bill for the Land Registration etc. (Scotland) Act 2012 received Royal Assent on 10th July 2012. Sections 113, 114(1), 116, 117, 122, 123 and 124 came into force the following day.