



Land Registration (Scotland) Act 1979

1979 CHAPTER 33

PART I

REGISTRATION OF INTERESTS IN LAND

1 The Land Register of Scotland

- (1) There shall be a public register of interests in land in Scotland to be known as the "Land Register of Scotland" (in this Act referred to as "the register").
- (2) The register shall be under the management and control of the Keeper of the Registers of Scotland (in this Act referred to as "the Keeper") and shall have a seal.
- (3) In this Act "registered" means registered in the register in accordance with this Act and "registrable", "registration" and other cognate expressions shall be construed accordingly.

2 Registration

- (1) Subject to subsection (2) below, an unregistered interest in land other than an overriding interest shall be registrable—
 - (a) in any of the following circumstances occurring after the commencement of this Act—
 - (i) on a grant of the interest in land in feu, long lease or security by way of contract of ground annual, but only to the extent that the interest has become that of the feuar, lessee or debtor in the ground annual;
 - (ii) on a transfer of the interest for valuable consideration ;
 - (iii) on a transfer of the interest in consideration of marriage;
 - (iv) on a transfer of the interest whereby it is absorbed into a registered interest in land;
 - (v) on any transfer of the interest where it is held under a long lease, udal tenure or a kindly tenancy;

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- (b) in any other circumstances in which an application is made for registration of the interest by the person or persons having that interest and the Keeper considers it expedient that the interest should be registered.
- (2) Subsection (1) above does not apply to an unregistered interest which is a heritable security, liferent or incorporeal heritable right; and subsection (1)(a)(ii) above does not apply where the interest on transference is absorbed into another unregistered interest.
- (3) The creation over a registered interest in land of any of the following interests in land—
- (i) a heritable security;
 - (ii) a liferent;
 - (iii) an incorporeal heritable right,
- shall be registrable; and on registration of its creation such an interest shall become a registered interest in land.
- (4) There shall also be registrable—
- (a) any transfer of a registered interest in land including any transfer whereby it is absorbed into another registered interest in land ;
 - (b) any absorption by a registered interest in land of another registered interest in land ;
 - (c) any other transaction or event which (whether by itself or in conjunction with registration) is capable under any enactment or rule of law of affecting the title to a registered interest in land but which is not a transaction or event creating or affecting an overriding interest.
- (5) The Secretary of State may, by order made by statutory instrument, provide that interests in land of a kind or kinds specified in the order, being interests in land which are unregistered at the date of the making of the order other than overriding interests, shall be registered; and the provisions of this Act shall apply for the purposes of such registration with such modifications, which may include provision as to the expenses of such registration, as may be specified in the order.
- (6) In this section, " enactment" includes sections 17, 18 and 19 of this Act.

3 Effect of registration

- (1) Registration shall have the effect of—
- (a) vesting in the person registered as entitled to the registered interest in land a real right in and to the interest and in and to any right, pertinent or servitude, express or implied, forming part of the interest, subject only to the effect of any matter entered in the title sheet of that interest under section 6 of this Act so far as adverse to the interest or that person's entitlement to it and to any overriding interest whether noted under that section or not;
 - (b) making any registered right or obligation relating to the registered interest in land a real right or obligation ;
 - (c) affecting any registered real right or obligation relating to the registered interest in land,
- insofar as the right or obligation is capable, under any enactment or rule of law, of being vested as a real right, of being made real or, as the case may be, of being affected as a real right.

In this subsection, " enactment " includes sections 17, 18 and 19 of this Act.

(2) Registration shall supersede the recording of a deed in the Register of Sasines but, subject to subsection (3) below, shall be without prejudice to any other means of creating or affecting real rights or obligations under any enactment or rule of law.

(3) A—

- (a) lessee under a long lease;
- (b) proprietor under udal tenure ;
- (c) kindly tenant,

shall obtain a real right in and to his interest as such only by registration ; and registration shall be the only means of making rights or obligations relating to the registered interest in land of such a person real rights or obligations or of affecting such real rights or obligations.

(4) The date—

- (a) at which a real right or obligation is created or as from which it is affected under this section;
 - (b) of entry of a feuar of a registrable interest in land with his superior,
- shall be the date of registration.

(5) Where an interest in land has been registered, any obligation to assign title deeds and searches relating to that interest in land or to deliver them or make them forthcoming or any related obligation shall be of no effect in relation to that interest or to any other registered interest in land.

This subsection does not apply—

- (a) to a land or charge certificate issued under section 5 of this Act;
- (b) where the Keeper has, under section 12(2) of this Act, excluded indemnity under Part II of this Act.

(6) It shall not be necessary for an uninfert proprietor of an interest in land which has been registered to expedite a notice of title in order to complete his title to that interest if evidence of sufficient midcouples or links between the uninfert proprietor and the person last infert are produced to the Keeper on any registration in respect of that interest and, accordingly, section 4 of the Conveyancing (Scotland) Act 1924 (completion of title by person uninfert) shall be of no effect in relation to such an interest in land.

This subsection does not apply to the completion of title under section 74 or 76 of the Lands Clauses Consolidation (Scotland) Act 1845 (procedure on compulsory purchase of lands).

(7) Nothing in this section affects any question as to the validity or effect of an overriding interest.

4 Applications for registration

(1) Subject to subsection (2) below, an application for registration shall be accepted by the Keeper if it is accompanied by such documents and other evidence as he may require.

(2) An application for registration shall not be accepted by the Keeper if—

- (a) it relates to land which is not sufficiently described to enable him to identify it by reference to the Ordnance Map;

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- (b) it relates to land which is a souvenir plot, that is a piece of land which, being of inconsiderable size or no practical utility, is unlikely to be wanted in isolation except for the sake of mere ownership or for sentimental reasons or commemorative purposes ; or
 - (c) it is frivolous or vexatious ;
 - (d) a deed which—
 - (i) accompanies the application ;
 - (ii) relates to a registered interest in land; and
 - (iii) is executed after that interest has been registered,
 does not bear a reference to the number of the title sheet of that interest.
- (3) On receipt of an application for registration, the Keeper shall forthwith note the date of such receipt, and that date shall be deemed for the purposes of this Act to be the date of registration either—
- (a) where the application, after examination by the Keeper, is accepted by him, or
 - (b) where the application is not accepted by him on the grounds that it does not comply with subsection (1) or (2)(a) or (d) above but, without being rejected by the Keeper or withdrawn by the applicant, is subsequently accepted by the Keeper on his being satisfied that it does so comply, or has been made so to comply.

5 Completion of registration

- (1) The Keeper shall complete registration—
- (a) in respect of an interest in land which is not a heritable security, liferent or incorporeal heritable right—
 - (i) if the interest has not previously been registered, by making up a title sheet for it in the register in accordance with section 6 of this Act, or
 - (ii) if the interest has previously been registered, by making such amendment as is necessary to the title sheet of the interest;
 - (b) in respect of an interest in land which is a heritable security, liferent or incorporeal heritable right or in respect of the matters registrable under section 2(4) of this Act by making such amendment as is necessary to the title sheet of the interest in land to which the heritable security, liferent, incorporeal heritable right or matter, as the case may be, relates,
- and in each case by making such consequential amendments in the register as are necessary.
- (2) Where the Keeper has completed registration under subsection (1)(a) above, he shall issue to the applicant a copy of the title sheet, authenticated by the seal of the register; and such copy shall be known as a land certificate.
- (3) Where the Keeper has completed registration in respect of a heritable security, he shall issue to the applicant a certificate authenticated by the seal of the register ; and such certificate shall be known as a charge certificate.
- (4) A land certificate shall be accepted for all purposes as sufficient evidence of the contents of the title sheet of which the land certificate is a copy; and a charge certificate shall be accepted for all purposes as sufficient evidence of the facts stated in it
- (5) Every land certificate and charge certificate shall contain a statement as to indemnity by the Keeper under Part II of this Act

6 The title sheet

- (1) Subject to subsection (3) below, the Keeper shall make up and maintain a title sheet of an interest in land in the register by entering therein—
 - (a) a description of the land which shall consist of or include a description of it based on the Ordnance Map, and, where the interest is that of the proprietor of the *dominium utile* or the lessee under a long lease and the land appears to the Keeper to extend to 2 hectares or more, its area as calculated by the Keeper ;
 - (b) the name and designation of the person entitled to the interest in the land and the nature of that interest;
 - (c) any subsisting entry in the Register of Inhibitions and Adjudications adverse to the interest;
 - (d) any heritable security over the interest;
 - (e) any enforceable real right pertaining to the interest or subsisting real burden or condition affecting the interest;
 - (f) any exclusion of indemnity under section 12(2) of this Act in respect of the interest;
 - (g) such other information as the Keeper thinks fit to enter in the register.
- (2) The Keeper shall enter a real right or real burden or condition in the title sheet by entering its terms or a summary of its terms therein; and such a summary shall, unless it contains a reference to a further entry in the title sheet wherein the terms of the real right, burden or condition are set out in full be presumed to be a correct statement of the terms of the right, burden or condition.
- (3) The Keeper's duty under subsection (1) above shall not extend to entering in the title sheet any over-feuduty or overrent exigible in respect of the interest in land, but he may so enter any such over-feuduty or over-rent.
- (4) Any overriding interest which appears to the Keeper to affect an interest in land—
 - (a) shall be noted by him in the title sheet of that interest if it has been disclosed in any document accompanying an application for registration in respect of that interest;
 - (b) may be so noted if—
 - (i) application is made to him to do so;
 - (ii) the overriding interest is disclosed in any application for registration;or
 - (iii) the overriding interest otherwise comes to his notice.

In this subsection " overriding interest" does not include the interest of a lessee under a lease which is not a long lease.

- (5) The Keeper shall issue, to any person applying, a copy, authenticated as the Keeper thinks fit, of any title sheet, part thereof, or of any document referred to in a title sheet; and such copy, which shall be known as an office copy, shall be accepted for all purposes as sufficient evidence of the contents of the original.

7 Ranking

- (1) Without prejudice to any express provision as to ranking in any deed or any other provision as to ranking in, or having effect by virtue of, any enactment or rule of law, the following provisions of this section shall have effect to determine the ranking of titles to interests in land.

- (2) Titles to registered interests in land shall rank according to the date of registration of those interests.
- (3) A title to a registered interest and a title governed by a deed recorded in the Register of Sasines shall rank according to the respective dates of registration and recording.
- (4) Where the date of registration or recording of the titles to two or more interests in land is the same, the titles to those interests shall rank equally.

8 Continuing effectiveness of recording in Register of Sasines

- (1) Subject to subsection (3) below, the only means of creating or affecting a real right or a real obligation relating to anything to which subsection (2) below applies shall be by recording a deed in the Register of Sasines.
- (2) This subsection applies to—
 - (a) an interest in land which is to be transferred or otherwise affected by—
 - (i) an instrument which, having been recorded before the commencement of this Act in the Register of Sasines with an error or defect; or
 - (ii) a deed which, having been recorded before the commencement of this Act in the Register of Sasines with an error or defect in the recording, has not, before such commencement, been re-presented, corrected as necessary, for the purposes of recording of new under section 143 of the Titles to Land Consolidation (Scotland) Act 1868 ;

In this paragraph, " instrument" has the same meaning as in section 3 of the said Act of 1868.
 - (b) a registered interest in land which has been absorbed, otherwise than by operation of prescription, into another interest in land the title to which is governed by a deed recorded in the Register of Sasines ;
 - (c) anything which is not registrable under subsections (1) to (4) of section 2 of this Act and in respect of which, immediately before the commencement of this Act, a real right or obligation could be created or affected by recording a deed in the Register of Sasines.
- (3) Nothing in subsection (1) above shall prejudice any other means, other than by registration, of creating or affecting real rights or obligations under any enactment or rule of law.
- (4) Except as provided in this section, the Keeper shall reject any deed submitted for recording in the Register of Sasines.

9 Rectification of the register

- (1) Subject to subsection (3) below, the Keeper may, whether on being so requested or not, and shall, on being so ordered by the court or the Lands Tribunal for Scotland, rectify any inaccuracy in the register by inserting, amending or cancelling anything therein.
- (2) Subject to subsection (3)(b) below, the powers of the court and of the Lands Tribunal for Scotland to deal with questions of heritable right or title shall include power to make orders for the purposes of subsection (1) above.

- (3) If rectification under subsection (1) above would prejudice a proprietor in possession—
- (a) the Keeper may exercise his power to rectify only where—
 - (i) the purpose of the rectification is to note an overriding interest or to correct any information in the register relating to an overriding interest;
 - (ii) all persons whose interests in land are likely to be affected by the rectification have been informed by the Keeper of his intention to rectify and have consented in writing;
 - (iii) the inaccuracy has been caused wholly or substantially by the fraud or carelessness of the proprietor in possession; or
 - (iv) the rectification relates to a matter in respect of which indemnity has been excluded under section 12(2) of this Act;
 - (b) the court or the Lands Tribunal for Scotland may order the Keeper to rectify only where sub-paragraph (i), (iii) or (iv) of paragraph (a) above applies.
- (4) In this section—
- (a) " the court" means any court having jurisdiction in questions of heritable right or title ;
 - (b) " overriding interest" does not include the interest of a lessee under a lease which is not a long lease.

10 Positive prescription in respect of registered interests in land

Section 1 of the Prescription and Limitation (Scotland) Act 1973 shall have effect as if—

- (a) after " followed " in paragraph (b) of subsection (1) there were inserted " (i) " and for the words from " then " to the end of that subsection there were inserted “, or
 - (ii) registration of that interest in favour of that person in the Land Register of Scotland, subject to an exclusion of indemnity under section 12(2) of the Land Registration (Scotland) Act 1979,

then, as from the expiration of the said period, the validity of the title so far as relating to the said interest in the particular land shall be exempt from challenge.

(1A) Subsection (1) above shall not apply where—

- (a) possession was founded on the recording of a deed which is invalid *ex facie* or was forged ; or
 - (b) possession was founded on registration in respect of an interest in land in the Land Register of Scotland proceeding on a forged deed and the person appearing from the Register to be entitled to the interest was aware of the forgery at the time of registration in his favour”;
- (b) at the end of subsection (2) there were added " or which is registrable in the Land Register of Scotland. ".

11 Transitional provisions for Part I

- (1) If an application for registration relates to land no part of which is in an operational area, the Keeper may nevertheless accept that application as if it related to land wholly within an operational area, and if the Keeper has so accepted such an application, the provisions of this Act relating to registration then in force shall apply in relation to that application.
- (2) An application for registration which relates to land which is partly in an operational area shall be treated as if it related to land wholly in that area, and the provisions of this Act relating to registration in force shall apply in relation to that application.
- (3) In this section an "operational area" means an area in respect of which the provisions of this Act relating to registration have come into operation.