



Title Conditions (Scotland) Act 2003

2003 asp 9

PART 4

TRANSITIONAL: IMPLIED RIGHTS OF ENFORCEMENT

Extinction of implied rights of enforcement

51 Duties of Keeper: amendments relating to unenforceable real burdens

- (1) Unless one of the circumstances mentioned in subsection (2) below arises, the Keeper of the Registers of Scotland shall not be required to remove from the Land Register of Scotland a real burden which section 49 of this Act makes unenforceable.
- (2) The circumstances are that the Keeper—
 - (a) is requested, in an application for registration or rectification, to remove the real burden; or
 - (b) is, under section 9(1) of the 1979 Act (rectification of the register), ordered to do so by the court or the Lands Tribunal,and no such request or order shall be competent during that period of ten years which commences with the appointed day.
- (3) During the period mentioned in subsection (2) above a real burden, notwithstanding that it has been so made unenforceable, may at the discretion of the Keeper, for the purposes of section 6(1)(e) of the 1979 Act (entering subsisting real right in title sheet), be taken to subsist; but this subsection is without prejudice to subsection (4) below.
- (4) The Keeper shall not, before the date mentioned in subsection (5) below, remove from the Land Register of Scotland a real burden which is the subject of a notice in respect of which application has been made for a determination by—
 - (a) a court; or
 - (b) the Lands Tribunal,under section 115(6)(b) of this Act.
- (5) The date is whichever is the earlier of—
 - (a) that two months after the final decision on the application; and
 - (b) that prescribed under section 115(6)(ii) of this Act.