

SCOTTISH REGISTER OF TARTANS ACT 2008

EXPLANATORY NOTES

SUMMARY OF AND BACKGROUND TO THE ACT

Section 4: Functions of the Keeper

9. This section sets out the functions of the Keeper. Subsection (1) confers the functions of setting up, keeping and maintaining the Register. Subsection (2)(a) and (b) require the Keeper to make the Register publicly available, in electronic form, and to care for any documents, woven tartan samples or records supporting an application for registration in the Register or sent to the Keeper in connection with the exercise of his duties. The Keeper has control of the Register and responsibility for it and its contents. Subsection (2)(c) places a requirement on the Keeper to ensure the Register can be used effectively and efficiently. This means, for example, the Register must be organised in such a way as to be searchable.
10. Subsection (3) gives the Keeper a variety of powers in relation to the Register, its contents and physical things underpinning it. Paragraph (a) enables the Keeper to permit the public to inspect physical items associated with the Register (such as documents) held by him and to make copies of such documents. The Keeper can charge a fee for such services. Paragraph (c) enables the Keeper to answer enquiries or provide information on the Register, or undertake research in relation to the Register and its contents and to charge a fee for doing so. Paragraph (d) gives the Keeper a discretion to provide other services relating to the Register and paragraph (e) enables the Keeper to publicise the Register and promote its use. Paragraph (f) means the Keeper may issue guidance on the Register as respects matters the Keeper has power to specify, such as the form of the application for registration. Paragraph (g) allows the Keeper to consult anyone he considers appropriate before issuing guidance, for example tartan industry and other relevant experts.
11. Subsection (4) gives the Keeper a general power to take any steps he considers necessary to enable him to carry out properly and effectively his functions under the Act. This provides him, for example, with flexibility to refine the operation of the Register.
12. Subsection (5) makes provision in relation to the Keeper's duty to afford facilities for the inspection and copying of certain records under section 12A of the Public Records (Scotland) Act 1937. These are records which either fall to be disclosed in accordance with the Freedom of Information (Scotland) Act 2002 or comprise information which is exempt information within the meaning of that Act by virtue of section 25(2)(b)(ii) of that Act. Although the Keeper has a discretion to permit access to physical things and copying of documents under subsection (3), where such physical things fall within the meaning of "record" in section 12A of the Public Records Act 1937, the Keeper must make them available in terms of that section.