



# Land Registration etc. (Scotland) Act 2012

## 2012 asp 5

### PART 11

#### MISCELLANEOUS AND GENERAL

##### *General provisions*

### 113 Interpretation

- (1) In this Act, unless the context otherwise requires—
- “1995 Act” means the Requirements of Writing (Scotland) Act 1995 (c.7),
  - “advance notice” has the meaning given by section 56(1),
  - “application for registration” means an application under section 21 or 27,
  - “application record” has the meaning given by section 15,
  - “archive record” has the meaning given by section 14(1),
  - “the base map” has the meaning given by section 11(6),
  - “benefited property” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
  - “burdened property” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
  - “cadastral map” has the meaning given by section 11(1),
  - “cadastral unit” has the meaning given by section 12,
  - “date of application” (in relation to an application for registration) has the meaning given by section 36,
  - “date of registration” has the meaning given by 37(1),
  - “deed” means a document (and includes a decree which is registrable under an enactment),
  - “designation” includes—
    - (a) where the person designated is not a natural person—
      - (i) the legal system under which the person is incorporated or otherwise established,
      - (ii) if a number has been allocated to the person under section 1066 of the Companies Act 2006 (c.46), that number, and

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- (iii) any other identifier (whether or not a number) peculiar to the person, and
  - (b) if the person designated has a right in land in a special capacity, a description of that capacity,
    - “the designated day” has the meaning given by section 122,
    - “enactment” includes—
      - (a) an enactment comprised in, or in an instrument made under, this Act, and
      - (b) a local and personal or private Act,
    - “existing title sheet” means a title sheet which is in existence immediately before the commencement of the designated day,
    - “flat” has the meaning given by section 29(1) of the Tenements (Scotland) Act 2004 (asp 11),
    - “flatted building” has the meaning given by section 16(4),
    - “heritable creditor” means the holder of a heritable security,
    - “heritable security” means—
      - (a) a standard security, or
      - (b) any other right in security over heritable property provided that it is not a right in security created as a floating charge,
    - “the Keeper” means the Keeper of the Registers of Scotland,
    - “land” includes—
      - (a) buildings and other structures,
      - (b) the seabed of the territorial sea of the United Kingdom adjacent to Scotland (including land within the ebb and flow of the tide at ordinary spring tides), and
      - (c) other land covered with water,
    - “land register rules” means rules made under section 115(1),
    - “lease” includes sub-lease,
    - “lease title sheet” means a title sheet for a registered lease,
    - “personal real burden” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
    - “plot of land” has the meaning given by section 3(4) and (5),
    - “possession” includes civil possession (analogous expressions being construed accordingly),
    - “proprietor” means a person who has a valid completed title as proprietor to a plot of land,
    - “protected period” has the meaning given by section 58(3),
    - “the register” means the Land Register of Scotland,
    - “registrable deed” is to be construed in accordance with section 49,
    - “sharing plot” and “shared plot” are to be construed in accordance with section 17(3),
    - “tenement” has the meaning given by section 26 of the Tenements (Scotland) Act 2004 (asp 11),
    - “title condition” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
    - “title sheet record” has the meaning given by section 3(3).
- (2) A deed on which an application under section 21 is based is “valid” for the purposes of this Act if—

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- (a) by the registration applied for, a right would be acquired, varied or extinguished, or
  - (b) the deed is certificatory of an acquisition, variation or extinction which has taken place.
- (3) In relation to a lease title sheet, any reference in this Act—
- (a) to a proprietor is (except in section 66) to be read as a reference to the tenant,
  - (b) to a proprietorship section is to be construed as a reference to a tenancy section, and
  - (c) to ownership in common is to be construed as a reference to tenancy in common.
- (4) The Scottish Ministers may, by order, amend paragraph (b) of the definition of “designation” in subsection (1).
- (5) Before making such an order, the Scottish Ministers must consult the Keeper.

#### **114 References to “registering” etc. in the Land Register of Scotland**

- (1) In this Act (other than subsection (2)), unless the context otherwise requires—
- (a) any reference to “registration” is to registration in the register, and
  - (b) analogous expressions are to be construed accordingly.
- (2) Unless the context otherwise requires—
- (a) any reference, however expressed, in any enactment to “registering” a document in the register, is to be construed as including a reference to giving effect to that document in accordance either with section 30 or with section 31, and
  - (b) analogous expressions are to be construed accordingly.

VALID FROM 08/12/2014

#### **115 Land register rules**

- (1) The Scottish Ministers may, by regulations, make land register rules—
- (a) regulating the making up and keeping of the register,
  - (b) regulating the procedure in relation to applications for registration,
  - (c) prescribing forms to be used in relation to the register,
  - (d) as to when the application record is open for the making of entries,
  - (e) requiring the Keeper to enter in the title sheet record such information as may be specified in the rules or authorising or requiring the Keeper to enter in that record such rights or obligations as may be so specified,
  - (f) relating to any other matter which this Act provides may or must be provided for by land register rules, or
  - (g) concerning other matters and seeming to them to be necessary or expedient in order to give full effect to the purposes of this Act.
- (2) Before making land register rules, the Scottish Ministers must consult the Keeper.

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## **116 Subordinate legislation**

- (1) Any power conferred by this Act on the Scottish Ministers to make orders or regulations may be exercised to make different provision for different cases or descriptions of case or for different purposes.
- (2) Orders and regulations under the following sections are subject to the negative procedure—
  - (a) section 11(6)(b),
  - (b) section 27(6),
  - (c) section 45(7),
  - (d) section 48(2) or (3),
  - (e) section 56(4),
  - (f) subject to subsection (4)(a), section 100(1),
  - (g) section 115(1),
  - (h) subject to subsection (4)(b), section 117(1).
- (3) Orders and regulations under the following provisions are subject to the affirmative procedure—
  - (a) section 37(3),
  - (b) section 43(8),
  - (c) section 58(6),
  - (d) section 61(3)(b),
  - (e) section 64(1),
  - (f) section 68(3),
  - (g) section 79(4),
  - (h) section 84(7),
  - (i) section 95(4),
  - (j) section 99(3),
  - (k) section 107(1),
  - (l) section 110(1),
  - (m) section 113(4).
- (4) Orders and regulations under the following sections which add to, replace or omit the text of any Act are subject to the affirmative procedure—
  - (a) section 100(1),
  - (b) section 117(1).

## **117 Ancillary provision**

- (1) The Scottish Ministers may, by order, make such incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Act.
- (2) An order under subsection (1) may modify any enactment (including this Act).

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VALID FROM 08/12/2014

**118 Transitional provisions**

Schedule 4, which contains transitional provisions, has effect.

VALID FROM 08/12/2014

**119 Minor and consequential modifications**

Schedule 5, which contains minor amendments and repeals, and amendments and repeals consequential upon the provisions of this Act, has effect.

VALID FROM 08/12/2014

**120 Saving provisions**

- (1) The amendments to the Prescription and Limitation (Scotland) Act 1973 (c.52) made by paragraph 18(2) and (4) of schedule 5 do not apply in relation to a continuous period which has expired before the designated day.
- (2) Despite the repeal, by paragraph 19(5) of schedule 5, of section 28(1) of the Land Registration (Scotland) Act 1979 (c.33), that section continues to have effect for the purposes of sections 15(4), 16, 20 to 22A and 29 of and schedules 1 and 3 to the 1979 Act.

VALID FROM 08/12/2014

**121 Crown application**

- (1) No contravention by the Crown of section 112 makes the Crown criminally liable.
- (2) But the Court of Session may, on the application of the Keeper or any person authorised by the Keeper, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (1), section 112 applies to persons in the public service of the Crown as it applies to other persons.

**122 The designated day**

The Scottish Ministers may, for the purposes of this Act, by order, designate a day (“the designated day”), being a day which falls not less than 6 months after the order is made.

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## **123 Commencement**

- (1) The following sections come into force on the day after Royal Assent—
  - (a) section 113,
  - (b) section 114(1),
  - (c) section 116,
  - (d) section 117,
  - (e) section 122,
  - (f) this section, and
  - (g) section 124.
- (2) The following provisions of this Act come into force on the designated day—
  - (a) Parts 1 to 9 (other than sections 53(4) and 64) and schedules 1 and 2,
  - (b) sections 101 to 106,
  - (c) section 111,
  - (d) section 112,
  - (e) section 114(2),
  - (f) section 115,
  - (g) section 118 and schedule 4,
  - (h) section 119 and schedule 5,
  - (i) section 120, and
  - (j) section 121.
- (3) The other provisions of this Act come into force on such day as the Scottish Ministers may, by order, appoint.

## **124 Short title**

The short title of this Act is the Land Registration etc. (Scotland) Act 2012.

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