



Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 11

MISCELLANEOUS AND GENERAL

[^{F1}Offences]

Textual Amendments

- F1** S. 112 cross-heading substituted (5.9.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), s. 69(1), [Sch. 4 para. 6](#); S.I. 2022/876, reg. 4(c)

112 Offence relating to applications for registration

- (1) A person mentioned in subsection (2) commits an offence if the person—
- (a) makes a materially false or misleading statement in relation to an application for registration knowing that, or being reckless as to whether, the statement is false or misleading, or
 - (b) intentionally fails to disclose material information in relation to such an application or is reckless as to whether all material information is disclosed.
- (2) The persons are—
- (a) a person making an application for registration, or
 - (b) a person who, in connection with such an application, acts as solicitor or other legal adviser to the applicant.
- (3) It is a defence for a person charged with an offence under subsection (1) (the “accused”) that the accused took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) The defence is established if the accused—
- (a) acted in reliance on information supplied by another person, and
 - (b) did not know and had no reason to suppose that—
 - (i) the information was false or misleading, or
 - (ii) all material information had not been disclosed.

Changes to legislation: Land Registration etc. (Scotland) Act 2012, Cross Heading: Offences is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) Subsection (4) does not exclude other ways of establishing the defence mentioned in subsection (3).
- (6) An accused may not rely on a defence involving the allegation that the commission of the offence was due to reliance on information supplied by another person unless—
- (a) the accused has complied with subsection (7), or
 - (b) the court grants leave.
- (7) The accused must serve on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as is in the accused's possession—
- (a) in proceedings on indictment, at least 14 clear days before the preliminary hearing (where the case is to be tried in the High Court) or the first diet (where the case is to be tried in the sheriff court),
 - (b) in summary proceedings—
 - (i) where an intermediate diet is held, at or before that diet,
 - (ii) where no such diet is held, at least 10 clear days before the trial diet.
- (8) Subsection (6) does not apply where—
- (a) the accused lodges a defence statement—
 - (i) under section 70A of the Criminal Procedure (Scotland) Act 1995 (c.46), or
 - (ii) under section 125 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) in accordance with the time limits mentioned in subsection (7)(b), and
 - (b) the accused's defence involves an allegation that the commission of the offence was due to reliance on information supplied by another person.
- (9) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months, to a fine not exceeding the statutory maximum, or to both,
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years, to a fine, or to both.

Commencement Information

II S. 112 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

[^{F2}112A Offence by overseas entity

- (1) An overseas entity must not deliver to a person a qualifying registrable deed granted by the overseas entity if (disregarding the possibility of consent under paragraph 7(2) of schedule 1A) by virtue of paragraph 2 of schedule 1A the Keeper would be required to reject an application under section 21 for registration of the deed.
- (2) A qualifying registrable deed is to be treated as having been granted for the purposes of subsection (1) even if at the time when it is delivered it has been executed by the overseas entity only.
- (3) If an overseas entity breaches subsection (1), an offence is committed by—
- (a) the entity, and
 - (b) every officer of the entity who is in default.

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- (4) Nothing in this section affects the validity of a qualifying registrable deed delivered in breach of subsection (1).
- (5) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (6) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc.) apply for the purposes of this section as they apply for the purposes of provisions of the Companies Acts.
- (7) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act.
- (8) A person is not to be regarded as falling within subsection (7) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.
- (9) In this section—
- “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;
 - “qualifying registrable deed” means a registrable deed which is—
 - (a) a disposition;
 - (b) a standard security;
 - (c) a lease;
 - (d) an assignation of a lease.]

Textual Amendments

- F2** S. 112A inserted (5.9.2022) by Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), s. 69(1), **Sch. 4 para. 7**; S.I. 2022/876, reg. 4(c)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48A48B and cross-heading inserted by [2016 asp 18 s. 43\(2\)](#)
- s. 116(3)(ba)(bb) inserted by [2016 asp 18 s. 43\(3\)](#)