

# Land Registration etc. (Scotland) Act 2012

## 2012 asp 5

### PART 2

#### REGISTRATION

##### *Applications for registration*

#### **21 Application for registration of deed**

- (1) A person may apply to the Keeper for registration of a registrable deed.
- (2) The Keeper must accept an application under subsection (1) to the extent the applicant satisfies the Keeper that, as at the date of application, the general application conditions are met and—
  - (a) where the application is made in respect of a disposition of, or a notice of title to, an unregistered plot, the conditions set out in section 23 are met,
  - (b) where section 25 applies, the conditions set out in that section are met,
  - (c) in any other case, the conditions set out in section 26 are met.
- (3) To the extent the applicant does not so satisfy the Keeper, the Keeper must reject the application.
- (4) Subsection (2) is subject to section 45(5).
- [<sup>F1</sup>(5) For the purposes of this section, submission by electronic means of a copy of the deed is sufficient evidence of the original for the purposes of accepting an application for registration.
- (6) But subsection (5) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper's website as being acceptable.
- (7) In subsection (5), references to submission by electronic means are to submission—
  - (a) by means of an electronic communications network (for example as an attachment to an email), or
  - (b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.

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- (8) In subsection (7)(a), “electronic communications network” has the meaning given by section 32 of the Communications Act 2003.]

#### Textual Amendments

- F1** S. 21(5)-(8) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 12](#) (with [ss. 11-13](#))

#### Commencement Information

- II** S. 21 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

## 22 General application conditions

- (1) The general application conditions are—
- (a) the application is such that the Keeper is able to comply, in respect of it, with such duties as the Keeper has under Part 1,
  - (b) the application does not relate to a souvenir plot,
  - (c) the application does not fall to be rejected by virtue of section 6 or 9G of the Requirements of Writing (Scotland) Act 1995 (c.7) (registration of document) or of a prohibition in an enactment,
  - (d) the application is in the form (if any) prescribed by land register rules, and
  - (e) either—
    - (i) such fee as is payable for registration is paid, or
    - (ii) arrangements satisfactory to the Keeper are made for payment of that fee.
- (2) In subsection (1)(b), “souvenir plot” means a plot of land which—
- (a) is of inconsiderable size and of no practical utility, and
  - (b) is neither—
    - (i) a registered plot, nor
    - (ii) a plot the ownership of which has, at any time, separately been constituted or transferred by a document recorded in the Register of Sasines.

#### Commencement Information

- I2** [S. 22](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

## 23 Conditions of registration: transfer of unregistered plot

- (1) The conditions are that—
- (a) the application is made by the grantee of the disposition or as the case may be the person in whose favour is the notice of title,
  - (b) the deed is valid,
  - (c) the deed so describes the plot as to enable the Keeper to delineate its boundaries on the cadastral map,
  - (d) where within the plot there is a lesser area in respect of which a registrable encumbrance is constituted there is included in, or submitted with, the

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- application a plan or description sufficient to enable the Keeper to delineate the boundaries of the lesser area on the cadastral map,
- (e) there is included in the application a description of every public right of way (by whatever means) over or through the plot in so far as known to the applicant.
- (2) Subsection (1)(c) and (d) do not apply—
- (a) if the plot to which the application relates is a flat in a flatted building, and
- (b) either—
- (i) the flatted building is, by virtue of section 16, represented as a single cadastral unit on the cadastral map, or
- (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so represented.
- (3) Despite subsection (2), subsection (1)(c) and (d) apply in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.
- (4) Subsection (1)(d) does not apply in relation to an encumbrance which consists of—
- (a) a right to lead a pipe, cable, wire or other such enclosed unit over or under land,
- (b) a servitude created other than by registration.
- (5) In this section, “the deed” means the disposition or as the case may be the notice of title.

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#### Commencement Information

**I3** [S. 23](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

## 24 Circumstances in which section 25 applies

- (1) Section 25 applies where any of subsections (2) to (7) apply.
- (2) This subsection applies where—
- (a) the application is in respect of a grant of a lease, and
- (b) the subjects of the lease consist of or form part of an unregistered plot of land.
- (3) This subsection applies where—
- (a) the application is in respect of an assignation of an unregistered lease, and
- (b) the subjects of the lease consist of or form part of an unregistered plot of land.
- (4) This subsection applies where—
- (a) the application is in respect of a sublease granted by a tenant, and
- (b) the subjects of the tenant's lease consist of or form part of an unregistered plot of land.
- (5) This subsection applies where—
- (a) the application is in respect of a deed registrable by virtue of section 48(4), and
- (b) the land to which the deed relates consists of or forms part of an unregistered plot of land.
- (6) This subsection applies where—

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- (a) the application is in respect of a notice of title to a subordinate real right,
  - (b) the notice of title is registrable by virtue of section 4A (as inserted by section 53(3)) of the Conveyancing (Scotland) Act 1924 (c.27),
  - (c) the last completed title to the subordinate real right is recorded in the Register of Sasines, and
  - (d) the land in respect of which the subordinate real right is constituted consists of or forms part of an unregistered plot of land.
- (7) This subsection applies where—
- (a) the application is in respect of a standard security granted over an unregistered subordinate real right, and
  - (b) the land in respect of which the subordinate real right is constituted consists of or forms part of an unregistered plot of land.

#### Commencement Information

**I4** S. 24 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

## 25 Conditions of registration: certain deeds relating to unregistered plots

- (1) The conditions are that—
- (a) the deed is valid,
  - (b) the deed so describes the plot as to enable the Keeper to delineate its boundaries on the cadastral map,
  - (c) where within the plot there is a lesser area in respect of which a registrable encumbrance is constituted there is included in, or submitted with, the application a plan or description sufficient to enable the Keeper to delineate the boundaries of the lesser area on the cadastral map,
  - (d) there is included in the application a description of every public right of way (by whatever means) over or through the plot in so far as known to the applicant.
- (2) Subsection (1)(b) and (c) do not apply—
- (a) if the plot to which the deed relates is a flat in a flatted building, and
  - (b) either—
    - (i) the flatted building is, by virtue of section 16, represented as a single cadastral unit in the cadastral map, or
    - (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so represented.
- (3) Despite subsection (2), subsection (1)(b) and (c) apply in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.
- (4) Subsection (1)(c) does not apply in relation to an encumbrance which consists of—
- (a) a right to lead a pipe, cable, wire or other such enclosed unit over or under land,
  - (b) a servitude created other than by registration.
- (5) In this section and sections 30 and 41 in so far as they apply by virtue of this section, references to the plot are to be read as references to—

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- (a) where this section applies by virtue of section 24(2), (3) or (4), the area of land which forms the subjects of the lease,
- (b) where this section applies by virtue of section 24(5), the area of land to which the deed relates,
- (c) where this section applies by virtue of section 24(6) or (7), the area of land in respect of which the subordinate real right is constituted.

#### Commencement Information

**I5** S. 25 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

## 26 Conditions of registration: deeds relating to registered plots

- (1) The conditions are that—
  - (a) the deed is valid,
  - (b) the deed relates to a registered plot of land,
  - (c) the deed narrates the title number of each title sheet to which the application relates, and
  - (d) the deed, in so far as it relates to part only of a plot of land or of the subjects of a lease, so describes the part as to enable the Keeper to delineate on the cadastral map the boundaries of the part.
- (2) Where the title number of the title sheet of a sharing plot is narrated in the deed, subsection (1)(c) does not require the narration of the title number of the title sheet of the shared plot.
- (3) Subsection (1)(d) does not apply if—
  - (a) the part to which the deed relates is a flat in a flatted building, and
  - (b) either—
    - (i) the flatted building is, by virtue of section 16, represented as a single cadastral unit in the cadastral map, or
    - (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so depicted.
- (4) Despite subsection (3), subsection (1)(d) applies in so far as the part includes a pertinent outwith the flatted building, being a pertinent only of the part.
- (5) Subsection (1)(d) does not apply in the case of an application which relates to registration to create as a servitude a right to lead a pipe, cable, wire or other such enclosed unit over or under land.

#### Commencement Information

**I6** S. 26 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

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### Registration without deed

#### 27 Application for voluntary registration

- (1) A person mentioned in subsection (2) may apply for registration of an unregistered plot of land or any part of that plot.
- (2) The person is the owner (or, in the case of ownership in common, any of the owners) of the plot.
- (3) The Keeper must accept an application under subsection (1) to the extent—
  - (a) the applicant satisfies the Keeper that, as at the date of the application, the following are met—
    - (i) the general application conditions, and
    - (ii) the conditions mentioned in section 28, and
  - <sup>F2</sup>(b) .....
- (4) To the extent the applicant does not so satisfy the Keeper, the Keeper must reject the application.
- (5) Where the application is in respect of a part of a plot of land, references to the plot in section 28 and section 30 in so far as it applies by virtue of this section are to be read as references to the part.
- (6) The Scottish Ministers may by order repeal subsection (3)(b).
- (7) Before making such an order, the Scottish Ministers must consult the Keeper.
- (8) An order under subsection (6) may make different provision for different areas.

#### Textual Amendments

- F2** S. 27(3)(b) repealed (1.4.2016) by [The Registers of Scotland \(Voluntary Registration, Amendment of Fees, etc.\) Order 2015 \(S.S.I. 2015/265\)](#), arts. 1(3), 2

#### Commencement Information

- I7** S. 27 in force at 8.12.2014 by [S.S.I. 2014/127](#), art. 2

#### 28 Conditions of registration: voluntary registration

- (1) The conditions are that—
  - (a) there is submitted with the application a plan or description of the plot sufficient to enable the Keeper to delineate the plot's boundaries in the cadastral map,
  - (b) where within the plot there is a lesser area in respect of which a registrable encumbrance is constituted there is included in, or submitted with, the application a plan or description sufficient to enable the Keeper to delineate the boundaries of the lesser area in the cadastral map.
- (2) Subsection (1)(a) and (b) does not apply—
  - (a) if the plot to which the application relates is a flat in a flatted building, and
  - (b) either—

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- (i) the flatted building is, by virtue of section 16, represented as a single cadastral unit on the cadastral map, or
  - (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so depicted.
- (3) Despite subsection (2), subsection (1)(a) and (b) applies in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.
- (4) Subsection (1)(b) does not apply in relation to an encumbrance which consists of—
- (a) a right to lead a pipe, cable, wire or other such enclosed unit over or under land, or
  - (b) a servitude created other than by registration.

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**Commencement Information**

**I8** [S. 28](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

## **29 Keeper-induced registration**

- (1) Other than on application and irrespective of whether the proprietor or any other person consents, the Keeper may register an unregistered plot of land or part of that plot.
- (2) Where the Keeper decides under this section to register a part of a plot, references to the plot in section 30 are to be read as references to the part.

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**Commencement Information**

**I9** [S. 29](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### *Completion of registration*

## **30 Completion of registration of plot**

- (1) This section applies where—
- (a) the Keeper accepts—
    - (i) an application under section 21 in respect of a disposition of, or a notice of title to, an unregistered plot of land,
    - (ii) an application under section 21 by virtue of it meeting the conditions in section 25, or
    - (iii) an application under section 27 in respect of a plot of land or a part of a plot, or
  - (b) the Keeper decides to register a plot of land or a part of a plot under section 29.
- (2) The Keeper must—
- (a) make up a title sheet for the plot,
  - (b) make such other changes to the title sheet record as are necessary or expedient,
  - (c) create a cadastral unit for the plot,

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- (d) make such other changes to the cadastral map as are necessary or expedient, and
  - (e) copy into the archive record any document which—
    - (i) has been submitted to the Keeper or, where this section applies by virtue of subsection (1)(a)(ii) or (1)(b), is reasonably available to the Keeper, and
    - (ii) is relevant to the accuracy of the register.
- (3) Subsection (2)(e) is subject to section 14(3).
- (4) Changes under paragraph (b) or (d) of subsection (2) may include—
- (a) cancelling a title sheet and cadastral unit, or
  - (b) making up a new title sheet and creating a new cadastral unit.
- (5) In a case where—
- (a) this section applies by virtue of subsection (1)(a)(ii) or (1)(b), and
  - (b) any name or designation to be entered in the new title sheet to be made up cannot, or cannot with reasonable certainty, be determined by the Keeper,
- the Keeper may, in place of or as part of that entry, enter a statement that the name or designation is not known or as the case may be is not known with reasonable certainty.

#### Commencement Information

**I10** S. 30 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 31 Completion of registration of deed

- (1) This section applies where the Keeper accepts an application under section 21 other than an application to which section 30 applies.
- (2) The Keeper must as soon as reasonably practicable after accepting the application—
- (a) make such changes to the title sheet, or each of the title sheets, to which the application relates as are necessary to give effect to the deed,
  - (b) make such other changes (if any) to the title sheet record as are necessary or expedient,
  - (c) make such changes (if any) to the cadastral map as are necessary or expedient, and
  - (d) copy into the archive record—
    - (i) the deed being given effect to by registration, and
    - (ii) any other document which has been submitted to the Keeper and is relevant to the accuracy of the register.
- (3) Subsection (2)(d)(ii) is subject to section 14(3).
- (4) Changes under paragraphs (a) to (c) of subsection (2) may include—
- (a) cancelling a title sheet and cadastral unit, or
  - (b) making up a new title sheet and creating a new cadastral unit.

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#### Commencement Information

**I11** S. 31 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

### 32 References to certain entries in Register of Inhibitions

- (1) Subsection (2) applies where—
  - (a) the Keeper accepts an application for registration under section 21, and
  - (b) the validity of the deed to which the application relates might be affected by an entry in the Register of Inhibitions.
- (2) The Keeper must, as soon as reasonably practicable after accepting the application, enter a reference to the entry in the title sheet.
- (3) Subsection (2) does not apply where the entry mentioned in subsection (1)(b) is—
  - (a) a notice of land attachment (within the meaning of section 83(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)), or
  - (b) a notice of a signeted summons in an action of reduction of a deed granted in breach of inhibition.

#### Commencement Information

**I12** S. 32 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

#### *General provision about applications*

### 33 Recording in application record

- (1) On receipt of an application for registration, the Keeper must—
  - (a) as soon as reasonably practicable, or
  - (b) if the application record is not open for the making of entries, as soon as reasonably practicable on the application record next opening for that purpose, enter in the application record details of the application (including the date the entry under this subsection is made).
- (2) No such entry need be made however if, on receipt of the application, it is immediately apparent to the Keeper that the application falls to be rejected.
- (3) On an application being—
  - (a) withdrawn,
  - (b) accepted by the Keeper, or
  - (c) rejected by the Keeper,the Keeper must remove the entry relating to it from the application record.

#### Commencement Information

**I13** S. 33 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

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### 34 Withdrawal and amendments etc. of application

- (1) While an application for registration is pending, the applicant—
  - (a) may withdraw it, but
  - (b) except with the consent of the Keeper, may not substitute it or amend it.
- (2) Land register rules may specify circumstances in which consent under subsection (1) (b) must be given.

#### Commencement Information

**I14** [S. 34](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 35 Period within which decision must be made

- (1) The Keeper's decision as to whether to accept or reject an application for registration must be made within such period as may be prescribed in land register rules.
- (2) Different periods may be so prescribed for different kinds of application.
- (3) The Keeper must deal with an application without unreasonable delay.

#### Commencement Information

**I15** [S. 35](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

*Date of application and registration etc.*

### 36 Date of application

Any reference in this Act, however expressed, to the date of an application for registration is a reference to the date an entry in respect of the application is made in the application record under subsection (1) of section 33 (or, but for subsection (2) of that section, would fall to be made).

#### Commencement Information

**I16** [S. 36](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 37 Date and time of registration

- (1) Where the Keeper accepts an application for registration, the date of registration is the date of the application.
- (2) The time of registration is deemed to be the moment at which, following the application being received by the Keeper, the application record next closes.
- (3) The Scottish Ministers may by order—
  - (a) amend subsection (2) so as to make different provision as regards time of registration, and

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(b) make such other amendments to this Act as are consequential upon that amendment.

(4) Before making such an order, the Scottish Ministers must consult the Keeper.

**Commencement Information**

**I17** S. 37 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

**38 Power to amend section 6 of the Land Registers (Scotland) Act 1868**

If, under section 37(3)(a), the Scottish Ministers amend this Act, they may, in that order, correspondingly amend section 6 of the Land Registers (Scotland) Act 1868 (c.64) (which provides for registration in the General Register of Sasines) and make such other amendments to that Act as are consequential upon that amendment to that section.

**Commencement Information**

**I18** S. 38 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

*Applications in relation to the same land*

**39 Order in which applications are to be dealt with**

- (1) The Keeper must deal with two or more applications for registration in relation to the same land in order of receipt.
- (2) In the absence of evidence to the contrary, the order of receipt is to be taken to be the order in which the details of the applications were entered in the application record.
- (3) Subsection (1) is subject to subsections (4) to (8).
- (4) Subsection (5) applies where—
  - (a) two applications (“application A” and “application B”) are received on the same date in relation to the same land,
  - (b) to accept one of the applications would require the Keeper to reject the other,
  - (c) the deed to which application A purports to give effect is a deed in relation to which a protected period is running, and
  - (d) the deed to which application B purports to give effect either—
    - (i) is not such a deed, or
    - (ii) is such a deed but the protected period relating to the deed to which application A purports to give effect began before the protected period relating to the deed to which application B purports to give effect.
- (5) The Keeper must deal with application A before application B.
- (6) Subsection (8) applies where—
  - (a) two applications (“application C” and “application D”) are received on the same date in relation to the same land,

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- (b) the deed to which one of them (application C) purports to give effect is a deed in favour of a person (“X”), and
  - (c) the deed to which the other (application D) purports to give effect is a deed granted by X.
- (7) Subsection (8) also applies where—
- (a) two applications (“application C” and “application D”) are received on the same date in relation to the same land,
  - (b) one application (application C) is an application under section 27, and
  - (c) the other (application D) is an application under section 21.
- (8) The Keeper must deal with application C before application D.

#### Commencement Information

**I19** S. 39 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

### Notification

#### 40 Notification of acceptance, rejection or withdrawal of application

- (1) On an application for registration being accepted or rejected, the Keeper must notify—
- (a) the applicant,
  - (b) the granter of the deed sought to be registered (if any),
  - (c) if notification of receipt of the application was given under section 45(1), those to whom it was given, and
  - (d) any other person the Keeper considers appropriate.
- (2) On an application for registration being withdrawn, the Keeper must notify—
- (a) the granter of the deed which had been sought to be registered (if any),
  - (b) if such notification as is mentioned in subsection (1)(c) was given, those to whom it was given, and
  - (c) any other person the Keeper considers appropriate.
- (3) The Keeper's duty to notify persons under subsections (1) and (2) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (4) Notification is to be by such means as the Keeper considers appropriate.
- (5) Land register rules may make further provision about notification under subsections (1) and (2).
- (6) A failure to comply with subsections (1) and (2) or with any rules so made does not affect the competence or validity of the acceptance, rejection or withdrawal in question.

#### Commencement Information

**I20** S. 40 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

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#### **41 Notification to proprietor**

- (1) This section applies where—
  - (a) the Keeper accepts an application under section 21 by virtue of it meeting the conditions in section 25, or
  - (b) the Keeper registers a plot of land under section 29.
- (2) The Keeper is to notify—
  - (a) the proprietor of the plot, and
  - (b) any other person the Keeper considers appropriate.
- (3) The Keeper's duty to notify persons under subsection (2) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (4) Notification is to be by such means as the Keeper considers appropriate.
- (5) Land register rules may make further provision about notification under subsection (2).
- (6) A failure to comply with subsection (2) or with any rules so made does not affect the competence or validity—
  - (a) of the acceptance of the application in question, or
  - (b) of the registration of the plot of land in question.

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##### **Commencement Information**

**I21** S. 41 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

#### **42 Notification to Scottish Ministers of certain applications**

- (1) This section applies where an application under section 21 is rejected on the ground that (or on grounds which include the ground that) the Keeper is not satisfied that the application does not relate to a transfer prohibited—
  - (a) by section 40(1) of the Land Reform (Scotland) Act 2003 (asp 2) (effect of registration of community interest in land), or
  - (b) under section 37(5)(e) of that Act (prohibition pending determination as to whether a community interest in land is to be registered).
- (2) However, this section does not apply where the only reason for the Keeper not being satisfied as mentioned in subsection (1) is that the application is not accompanied by a declaration required under section 43(2) of that Act (incorporation of certain declarations into deed giving effect to transfer).
- (3) The Keeper must—
  - (a) notify the Scottish Ministers, and
  - (b) provide them with a copy of the application.

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##### **Commencement Information**

**I22** S. 42 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

*Changes to legislation: Land Registration etc. (Scotland) Act 2012, Part 2 is up to date with all changes known to be in force on or before 06 January 2021. 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*

*Prescriptive claimants etc.*

**43 Prescriptive claimants**

- (1) For the purposes of sections 23(1)(b), and 26(1)(a), a disposition is to be treated as being valid despite not being so if the conditions mentioned in subsections (2) to (4) are met.
- (2) It appears to the Keeper that the disposition is not valid (or, as regards part of the land to which the application relates, is not valid) for the reason only that the person who granted it had no title to do so.
- (3) The applicant satisfies the Keeper that the land to which the application relates (or as the case may be the part in question) has been possessed openly, peaceably and without judicial interruption—
  - (a) by the disponent or the applicant for a continuous period of 1 year immediately preceding the date of application, or
  - (b) first by the disponent and then by the applicant for periods which together constitute such a period.
- (4) The applicant satisfies the Keeper that the following person has been notified of the application—
  - (a) the proprietor,
  - (b) if there is no proprietor (or none can be identified), any person who appears to be able to take steps to complete title as proprietor, or
  - (c) if there is no proprietor and no such person (or, in either case, none can be identified), the Crown.
- (5) For the purposes of section 26(1)(a), a deed is to be treated as being valid despite not being so if—
  - (a) the deed is granted by or is directed against a prescriptive claimant, and
  - (b) the application would be accepted were the prescriptive claimant's title valid.
- (6) In subsection (5), a “prescriptive claimant” is—
  - (a) a person whose name is entered as proprietor in the proprietorship section of a title sheet, on an application being accepted by virtue of subsection (1),
  - (b) a person whose name is entered as holder of a right, in the appropriate section of a title sheet, the entry in relation to the right being one marked provisional under section 81(3)(a)(i),
  - (c) any person in right of a person mentioned in paragraph (a) or (b).
- (7) Land register rules may make further provision about notification under subsection (4).
- (8) The Scottish Ministers may, by order, amend subsection (3) so as to substitute for the period for the time being mentioned there a different period.
- (9) Before making such an order, the Scottish Ministers must consult the Keeper.

**Commencement Information**

**I23** S. 43 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

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**Changes to legislation:** Land Registration etc. (Scotland) Act 2012, Part 2 is up to date with all changes known to be in force on or before 06 January 2021. 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](#)

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#### 44 Provisional entries on title sheet

- (1) Where the Keeper accepts an application under section 21 by virtue of section 43(1) or (5), the Keeper is to mark any resulting entry in the title sheet as provisional.
- (2) The Keeper is to remove the provisional marking from an entry if and when the real right to which the entry relates becomes, under section 1 of the Prescription and Limitation (Scotland) Act 1973 (c.52) (validity of right), exempt from challenge.
- (3) While an entry remains provisional—
  - (a) it does not affect any right held by any person in the land to which the entry relates, and
  - (b) rights set out in the register are not to be altered or deleted by virtue only of the entry.

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#### Commencement Information

I24 [S. 44](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

#### 45 Notification of prescriptive applications

- (1) Before accepting an application under section 21 which is received by virtue of section 43(1), the Keeper must notify—
  - (a) the proprietor,
  - (b) if there is no proprietor (or none can be identified), any person who appears to the Keeper able to take steps to complete title as proprietor, or
  - (c) if there is no proprietor and no such person (or, in either case, none can be identified), the Crown.
- (2) The Keeper's duty to notify persons under subsection (1) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (3) Notification is to be by such means as the Keeper considers appropriate.
- (4) A person to whom notice is given under subsection (1) may object in writing to the application being accepted.
- (5) If the Keeper receives such an objection within 60 days of the notice, the Keeper must reject the application.
- (6) Land register rules may make further provision about notification under subsection (1).
- (7) The Scottish Ministers may, by order, amend subsection (5) so as to substitute for the number of days for the time being mentioned there a different number of days.
- (8) Before making such an order, the Scottish Ministers must consult the Keeper.

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#### Commencement Information

I25 [S. 45](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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### *Further provision*

#### **46 Applications relating to compulsory acquisition**

In the application of sections 21, 23, 30 and 48 to a case in which transfer of ownership is by virtue of compulsory acquisition, any reference in those sections to a “disposition” includes a reference to—

- (a) a conveyance the form of which is provided for by an enactment,
- (b) a notarial instrument, or
- (c) a general vesting declaration.

#### **Commencement Information**

**I26** S. 46 in force at 8.12.2014 by [S.S.I. 2014/127, art. 2](#)

#### **47 Effect of death or dissolution**

- (1) The Keeper must reject an application if the applicant dies, or as the case may be is dissolved, before the date of the application.
- (2) An application is not incompetent by reason only that the person who granted the deed sought to be registered dies, or as the case may be is dissolved, after the delivery of the deed.

#### **Commencement Information**

**I27** S. 47 in force at 8.12.2014 by [S.S.I. 2014/127, art. 2](#)

### *Closure of Register of Sasines etc.*

#### **48 Closure of Register of Sasines etc.**

- (1) The recording of any of the following in the Register of Sasines has no effect—
  - (a) a disposition,
  - (b) a lease,
  - (c) an assignation of a lease,
  - (d) any other deed in so far as it relates to a registered plot of land or to a registered lease.
- (2) The recording, on or after such day as is prescribed, of a standard security in the Register of Sasines has no effect.
- (3) The recording, on or after such day as is prescribed, of a deed other than one mentioned in subsection (1) or (2) in the Register of Sasines has no effect.
- (4) On and after the day prescribed under subsection (3), any deed the recording of which would, by virtue of that subsection, have no effect is (subject to the provisions of this Act) registrable in the Land Register.

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**Changes to legislation:** Land Registration etc. (Scotland) Act 2012, Part 2 is up to date with all changes known to be in force on or before 06 January 2021. 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](#)

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- (5) Where by virtue of this section the recording of a deed, disposition, lease, assignation or standard security in the Register of Sasines would have no effect, the Keeper is to reject any application to record it.
- (6) Subsection (1)(a) is without prejudice to sections 4 (creation of real burden) and 75 (creation of positive servitude by writing: deed to be registered) of the Title Conditions (Scotland) Act 2003 (asp 9).
- (7) Any day prescribed under subsection (2) or (3) is to be a day no earlier than the day subsection (3)(b) of section 27 is repealed by virtue of subsection (6) of that section.
- (8) In subsections (2) and (3), “prescribed” means prescribed by the Scottish Ministers by order.
- (9) An order under subsection (2) or (3) may make different provision for different areas.
- (10) Before making an order under subsection (2) or (3), the Scottish Ministers must consult—
  - (a) the Keeper, and
  - (b) such other persons appearing to have an interest in the closure of the Register of Sasines to the recording of deeds as the Scottish Ministers consider appropriate.

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**Commencement Information**

**I28** [S. 48](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

**Changes to legislation:**

Land Registration etc. (Scotland) Act 2012, Part 2 is up to date with all changes known to be in force on or before 06 January 2021. 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.

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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\(3\)](#)