

Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 3

COMPETENCE AND EFFECT OF REGISTRATION

Registrable deeds

49 Registrable deeds

- (1) A deed is registrable only if and in so far as its registration is authorised (whether expressly or not) by—
 - (a) this Act,
 - (b) an enactment mentioned in subsection (3), or
 - (c) any other enactment.
- (2) Registration of such a deed has the effect provided for (whether expressly or not) by—
 - (a) this Act,
 - (b) an enactment mentioned in subsection (3),
 - (c) any other enactment, or
 - (d) any rule of law.
- (3) The enactments referred to in subsections (1) and (2) are—
 - (a) the Registration of Leases (Scotland) Act 1857 (c.26),
 - (b) the Conveyancing (Scotland) Act 1924 (c.27),
 - (c) the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35),
 - (d) the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73).
- (4) Registration of an invalid deed confers real effect only to the extent that an enactment so provides.

Commencement Information

II S. 49 in force at 8.12.2014 by [S.S.I. 2014/127](#), **art. 2**

Changes to legislation: Land Registration etc. (Scotland) Act 2012, Part 3 is up to date with all changes known to be in force on or before 14 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

Specific provisions on competence and effect of registration

50 Transfer by disposition

- (1) A disposition of land may be registered.
- (2) Registration of a valid disposition transfers ownership.
- (3) An unregistered disposition does not transfer ownership.
- (4) Subsections (1) to (3) are subject to—
 - (a) sections 43 and 86, and
 - (b) any other enactment or rule of law by or under which ownership of land may pass.
- (5) In subsection (1), “land” includes land held on udal title.

Commencement Information

I2 [S. 50](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

51 Proper liferents

- (1) A deed creating a proper liferent over land may be—
 - (a) registered, or
 - (b) recorded in the Register of Sasines.
- (2) The proper liferent is not created before the deed is so registered or recorded.
- (3) Subsections (1) and (2) are subject to any other enactment or any rule of law by or under which a proper liferent over land may be created.
- (4) References in this section to the recording of a deed include references to the recording of a notice of title deducing title through a deed.

Commencement Information

I3 [S. 51](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

52 Registration of, and of transactions and events affecting, leases

- (1) The Registration of Leases (Scotland) Act 1857 (c.26) is amended as follows.
- (2) After section 20 insert—

“20A Certain transactions or events registrable in the Land Register of Scotland

- (1) A deed mentioned in subsection (2) which affects a lease registered in the Land Register of Scotland is registrable in that register.
- (2) The deed is one—
 - (a) terminating the lease,

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- (b) extending the duration of the lease,
- (c) otherwise altering the terms of the lease.

20B Effect of registration in the Land Register of Scotland

- (1) Registration in the Land Register of Scotland has the effect of—
 - (a) vesting in the person registered as entitled to the lease a real right in and to the lease and in and to any right or pertinent, express or implied, forming part of the lease, subject only to the effect of any matter entered in that register so far as adverse to the entitlement,
 - (b) making any registered right or obligation relating to the registered lease a real right or obligation, and
 - (c) affecting any registered real right or obligation relating to the registered lease,
in so far as the right or obligation is capable, under any enactment or rule of law, of being vested as a real right, of being made real or (as the case may be) of being affected as a real right.
- (2) Registration in the Land Register of Scotland is the only means—
 - (a) whereby rights or obligations relating to a registered lease become real rights or obligations, or
 - (b) of affecting such real rights or obligations.
- (3) Subject to Part 9 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (rights to persons acquiring etc. in good faith), registration of an invalid deed confers no real effect.”
- (3) Schedule 2, which contains minor and consequential modifications of the 1857 Act in consequence on this Act, has effect.

Commencement Information

I4 [S. 52](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

53 Completion of title

- (1) The Conveyancing (Scotland) Act 1924 (c.27) is amended as follows.
- (2) In section 4 (completion of title)—
 - (a) for “by a title which has not been completed by being recorded in the appropriate Register of Sasines, may” substitute “ may, if the last recorded title to the right is recorded in the General Register of Sasines, ”,
 - (b) the title of the section becomes “ Completion of title: General Register of Sasines ”.
- (3) After section 4 insert—

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“4A Completion of title: Land Register

Any person having right either to land or to a heritable security may complete title by registration in the Land Register of a notice of title in or as nearly as may be in the terms of the form in schedule BA to this Act.

4B Further provision as regards completion of title

- (1) If it is competent to register a disposition or assignation in the Land Register, it is not competent for the disponee or assignee to complete title in the manner provided for in section 4 of this Act.
 - (2) In this section and in section 4A of this Act, “Land Register” means the Land Register of Scotland.”.
- (4) After section 49 insert—

“49A Power of the Scottish Ministers to prescribe forms

- (1) The Scottish Ministers may, by order, modify any schedule to this Act.
 - (2) Such an order may, in particular, substitute for any form, notice, clause, warrant or other deed for the time being set out in such a schedule another such form, notice, clause, warrant or other deed.
 - (3) An order under this section is subject to the affirmative procedure.”.
- (5) After schedule B insert—

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“SCHEDULE BA
FORM OF NOTICE OF TITLE: LAND REGISTER

Be it known that *A.B. (designation)* has right as proprietor to all and whole (*description*) conform to the last completed title and subsequent writ (*or writs*), which title and writ (*or writs*) have been examined by me, *Y.Z. (designation)*, Notary Public (*or Law Agent*).

[*Testing clause.*]

Y.Z.

NOTES TO SCHEDULE BA

Note 1: Where the notice is in respect of a subordinate real right, other than a registered lease having its own title sheet, for “proprietor to” substitute “holder of liferent (*or other right, as the case may be*) over”.

Note 2: Where the notice is in respect of a registered lease having its own title sheet, for “proprietor to” substitute “tenant of”.

Note 3: If any writ by which *A.B.* acquired right contains a new title condition, whether burdening or benefiting the property, the condition is to be inserted in full after the description of the property.

Note 4: In the case of a traditional document, subscription of it by the notary public (*or law agent*) on behalf of the granter will suffice for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes: see the Requirements of Writing (Scotland) Act 1995 (c.7) (which also makes provision as regards the authentication of an electronic document).

Commencement Information

I5 S. 53(1)-(3)(5) in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

I6 S. 53(4) in force at 1.11.2012 by S.S.I. 2012/265, **art. 2**

54 Registration of decree of reduction

After section 46 of the Conveyancing (Scotland) Act 1924 (c.27) insert—

“46A Further provision as regards decree of reduction

- (1) Where a deed mentioned in subsection (2) is reduced, the decree of reduction—
- (a) may be registered in the Land Register of Scotland, and

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- (b) does not have real effect until so registered.
- (2) The deed is one which—
 - (a) is voidable, and
 - (b) relates to a plot of land or lease registered in the Land Register of Scotland.
- (3) Subsection (1) applies to an arbitral award which—
 - (a) orders the reduction of a deed mentioned in subsection (2), and
 - (b) may be enforced in accordance with section 12 of the Arbitration (Scotland) Act 2010 (asp 1),
as it applies to a decree of reduction.”.

Commencement Information

I7 S. 54 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

55 Registration of order for rectification of document etc.

- (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73) is amended as follows.
- (2) In section 8 (rectification of defectively expressed documents)—
 - (a) in subsection (3), after “made to it” insert “ and in either case after calling all parties who appear to it to have an interest ”,
 - (b) after that subsection insert—
 - “(3A) If a document is registered in the Land Register of Scotland in favour of a person acting in good faith then, unless the person consents to rectification of the document, it is not competent to order its rectification under subsection (3) above.”,
 - (c) in subsection (4), for “section 9(4)” substitute “ sections 8A and 9(4) ”.
- (3) After section 8 insert—

“8A Registration of order for rectification

An order for rectification made under section 8 of this Act in respect of a document which has been registered in the Land Register of Scotland—

- (a) may be registered in that register, and
- (b) does not have real effect until so registered.”.
- (4) In section 9 (provisions supplementary to section 8: protection of other interest)—
 - (a) in subsection (2)—
 - (i) for “subsection (3)” substitute “ subsections (2A) and (3) ”,
 - (ii) repeal “or on the title sheet of an interest in land registered in the Land Register of Scotland being an interest to which the document relates”,
 - (b) after that subsection insert—
 - “(2A) This section does not apply where the document to be rectified is a deed registered in the Land Register of Scotland.”,

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- (c) in subsection (3)—
 - (i) in paragraph (a), repeal “or (as the case may be) the title sheet”,
 - (ii) in paragraph (b), repeal “or on the title sheet”,
- (d) subsection (6) is repealed.

Commencement Information

18 [S. 55](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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\(3\)](#)