

# Land Registration etc. (Scotland) Act 2012

## 2012 asp 5

### PART 4

#### ADVANCE NOTICES

##### **Modifications etc. (not altering text)**

**C1** Pt. 4 applied (with modifications) (8.12.2014) by [The Land Registration etc. \(Scotland\) Act 2012 \(Incidental, Consequential and Transitional\) Order 2014 \(S.S.I. 2014/190\)](#), arts. 1(2), 4

#### **56 Advance notices**

- (1) An advance notice is a notice—
- (a) stating that a person intends to grant a deed to another person,
  - (b) stating the name and designation of both persons,
  - (c) describing the nature of the intended deed (as for example whether it is to be a disposition),
  - (d) where the intended deed relates to a registered lease or a registered plot of land—
    - (i) stating the title number of the title sheet to which the deed is to relate,
    - (ii) where the deed is to relate to a registered lease which does not have a lease title sheet, stating the particulars of the lease, and
    - (iii) where the deed is to relate to part only of the subjects of the lease, or to part only of the plot, describing the part so as to enable the Keeper to delineate on the cadastral map the boundaries of the part, and
  - (e) where the intended deed relates to an unregistered lease or unregistered plot of land, describing the lease or, as the case may be, plot.
- (2) Subsection (1)(d)(iii) 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 on the cadastral map, or

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- (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)(d)(iii) applies in so far as the part includes a pertinent outwith the flatted building, being a pertinent only of the part.
- (4) The Scottish Ministers may by regulations make provision about the description to be contained in an advance notice by virtue of subsection (1)(e).

#### Commencement Information

**II** S. 56 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 57 Application for advance notice

- (1) A person falling within subsection (2) may apply to the Keeper for an advance notice in relation to a registrable deed which the person intends to grant.
- (2) A person falls within this subsection if—
  - (a) the person may validly grant the intended deed, or
  - (b) the person has the consent of such a person to apply.
- (3) The Keeper may accept an application under subsection (1) only if—
  - (a) such fee as is payable in respect of the application is paid, or
  - (b) arrangements satisfactory to the Keeper are made for payment of that fee.
- (4) If the Keeper accepts an application under subsection (1), the Keeper must—
  - (a) where the intended deed relates to a registered plot of land—
    - (i) as soon as reasonably practicable or, 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 an advance notice in the application record, and
    - (ii) where (and to the extent that) section 56(1)(d)(iii) applies in relation to the notice, delineate the boundaries of the part on the cadastral map,
  - (b) in any other case, record an advance notice in the Register of Sasines.

#### Commencement Information

**I2** S. 57 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 58 Period of effect of advance notice

- (1) An advance notice has effect for the period of 35 days beginning with the day after the notice is entered in the application record or, as the case may be, recorded in the Register of Sasines.
- [<sup>F1</sup>(1A) If the application record is closed for the making of all entries as a result of coronavirus, an advance notice which has effect on the day the application record is closed is to have effect until the later of—
  - (a) the end of the period specified in section 58(1),

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- (b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the making of entries.
- (1B) If the Register of Sasines is closed for the making of all entries as a result of coronavirus, an advance notice which has effect on the day the Register of Sasines is closed is to have effect until the later of—
- (a) the end of the period specified in section 58(1),
  - (b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the recording of entries.
- (1C) If the application record is closed for the making of some entries as a result of coronavirus, an advance notice which is entered in the application record during the period that the application record is closed in part is to have effect until the later of—
- (a) the end of the period specified in section 58(1),
  - (b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the making of entries.
- (1D) If the Register of Sasines is closed for the recording of some entries as a result of coronavirus, an advance notice which is recorded during the period that the Register of Sasines is closed in part is to have effect until the later of—
- (a) the end of the period specified in section 58(1),
  - (b) the end of the period ending 10 days after the day on which the Keeper declares the Register of Sasines fully open for the making of entries.]
- (2) [F<sup>2</sup>Subsections (1), (1A), (1B), (1C) and (1D) are] subject to section 63.
- (3) The period during which an advance notice has effect is referred to in this Act as the “protected period”.
- (4) Subsection (5) applies where two advance notices in relation to the same plot of land or lease are entered into the application record or recorded in the Register of Sasines on the same date.
- (5) The protected period in relation to the advance notice which is first to be entered in the application record, or as the case may be recorded in the Register of Sasines, is deemed to begin before the protected period in relation to the other advance notice.
- (6) The Scottish Ministers may, by order amend subsection (1) so as to substitute for the period for the time being mentioned there a different period.
- (7) Before making such an order, the Scottish Ministers must consult the Keeper.
- [F<sup>3</sup>(8) In this section, “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.]

#### Textual Amendments

- F1** S. 58(1A)-(1D) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 19\(a\)](#) (with [ss. 11-13](#))
- F2** Words in s. 58(2) substituted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 19\(b\)](#) (with [ss. 11-13](#))
- F3** S. 58(8) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 7 para. 19\(c\)](#) (with [ss. 11-13](#))

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#### Modifications etc. (not altering text)

- C2** S. 58(1) modified (temp.) (7.4.2020) by [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [Sch. 7 paras. 15-18](#) (with [ss. 11-13](#))

#### Commencement Information

- I3** S. 58 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 59 Effect of advance notice: registered deeds

- (1) Subsections (2) and (3) apply in relation to any two deeds (“deed Y” and “deed Z”) relating to the same plot of land where—
  - (a) during a protected period relating to deed Y—
    - (i) an application is made for registration of deed Z, and
    - (ii) on or after the date of that application, an application is made for registration of deed Y, and
  - (b) deed Z either—
    - (i) is not a deed in relation to which a protected period is running, or
    - (ii) is such a deed, but the protected period relating to deed Y began before the protected period relating to deed Z.
- (2) If deed Z is registered before the Keeper comes to make any decision as to whether or not to accept the application for registration of deed Y, that decision is to be taken as if deed Z had not been registered.
- (3) If the decision mentioned in subsection (2) is to accept the application—
  - (a) deed Y has on registration the same effect as if deed Z had not been registered, and
  - (b) the Keeper must amend the register so that it gives effect (if any) to deed Z as if it were registered after deed Y.

#### Commencement Information

- I4** S. 59 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

### 60 Effect of advance notice: recorded deeds

- (1) Subsections (2) and (3) apply in relation to any two deeds (“deed Y” and “deed Z”) relating to the same plot of land where, during a protected period relating to deed Y—
  - (a) deed Z is recorded in the Register of Sasines, and
  - (b) on or after the date of recording, an application is made for registration of deed Y.
- (2) The decision as to whether or not to accept the application for registration of deed Y is to be taken as if deed Z had not been recorded.
- (3) If the decision mentioned in subsection (2) is to accept the application—
  - (a) deed Y has on registration the same effect as if deed Z had not been recorded, and
  - (b) in making up the title sheet for the plot, the Keeper must give effect (if any) to deed Z as if it were not recorded but registered after deed Y.

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#### Commencement Information

**I5** S. 60 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

### 61 Effect of advance notice: further provision

- (1) A deed to which an advance notice relates, if registered on a date which falls within the protected period, is not subject to—
  - (a) an inhibition registered in the Register of Inhibitions against the granter and taking effect before that date but during that period, or
  - (b) anything registered or recorded in that register and taking effect, before that date but during that period, as if an inhibition registered against the granter.
- (2) Sections 59 and 60 apply irrespective of whether a deed is voluntary or involuntary.
- (3) Sections 59 and 60 do not apply in relation to—
  - (a) a notice registered, or intended or sought to be registered, under—
    - (i) section 10(2A) of the Title Conditions (Scotland) Act 2003 (asp 9), or
    - (ii) section 12(3) of the Tenements (Scotland) Act 2004 (asp 11), and
  - (b) such other deeds as the Scottish Ministers may by order specify.
- (4) Before making an order under subsection (3)(b), the Scottish Ministers must consult the Keeper.

#### Commencement Information

**I6** S. 61 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

### 62 Removal of advance notice etc.

- (1) After the protected period in relation to an advance notice has elapsed, the Keeper must, if the notice was entered in the application record—
  - (a) remove it from there, and
  - (b) if the notice has not already been entered in the archive record, enter it in that record.
- (2) After such period in relation to an advance notice as may be prescribed in land register rules the Keeper must, if the intended deed has not been registered, remove from the cadastral map any delineation effected under section 57(4)(a)(ii).

#### Commencement Information

**I7** S. 62 in force at 8.12.2014 by S.S.I. 2014/127, art. 2

### 63 Discharge of advance notice

- (1) A person who applied for an advance notice may apply to the Keeper for the discharge of that notice.
- (2) An application under subsection (1) may be made only during the protected period.

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- (3) The Keeper may accept an application under subsection (1) only if—
- (a) the person to whom the intended deed would be granted consents, and
  - (b) either—
    - (i) such fee as is payable in respect of the application is paid, or
    - (ii) arrangements satisfactory to the Keeper are made for payment of that fee.
- (4) If the Keeper accepts the application, the Keeper must—
- (a) if the advance notice was entered in the application record—
    - (i) remove it from there, and
    - (ii) if the notice has not already been entered in the archive record, enter it in that record,
  - (b) if the advance notice was recorded in the Register of Sasines, record a notice of discharge in relation to the advance notice.
- (5) On the advance notice being removed from the application record or, as the case may be, a notice of discharge being recorded, the advance notice ceases to have effect.

**Commencement Information**

**18** [S. 63](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

**64 Application of Part to specific deeds**

- (1) The Scottish Ministers may by order modify the application of this Part in relation to any deed of a kind specified in the order.
- (2) Before making such an order, the Scottish Ministers must consult the Keeper.

**Commencement Information**

**19** [S. 64](#) in force at 1.11.2012 by [S.S.I. 2012/265](#), [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\(3\)](#)