

Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 8

RECTIFICATION OF THE REGISTER

Rectification

80 Rectification of the register

- (1) This section applies where the Keeper becomes aware of a manifest inaccuracy in a title sheet or in the cadastral map.
- (2) The Keeper must rectify the inaccuracy if what is needed to do so is manifest.
- (3) Where what is so needed is not manifest, the Keeper must enter a note identifying the inaccuracy in the title sheet or, as the case may be, in the cadastral map.
- (4) Where the Keeper rectifies an inaccuracy, the Keeper must—
 - (a) include in the archive record a copy of any document which discloses, or contributes to disclosing, the inaccuracy, and
 - (b) give notice of the rectification to any person who appears to the Keeper to be affected by it materially.
- (5) Land register rules may make provision about—
 - (a) the persons to be notified by the Keeper, and
 - (b) the method by which such notice is to be given.
- (6) A failure to comply with subsection (4) or with any rules so made does not affect the validity of a rectification under subsection (2).

Commencement Information

II [S. 80](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

Changes to legislation: Land Registration etc. (Scotland) Act 2012, Part 8 is up to date with all changes known to be in force on or before 08 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

81 Rectification where registration provisional etc.

- (1) This section applies where it appears to the Keeper that rectification of an inaccuracy would interrupt a period of possession—
 - (a) which is current, and
 - (b) which, if uninterrupted, would, under section 1(1) or 2(1) of the Prescription and Limitation (Scotland) Act 1973 (c.52) (sections which provide for positive prescription), affect a real right.
- (2) If the inaccuracy is in an entry marked provisional by virtue of section 44, the Keeper—
 - (a) may rectify the register if all those affected consent,
 - (b) where there is no such consent, must not rectify the register before the existence of the inaccuracy is judicially determined.
- (3) In any other case, the Keeper—
 - (a) must—
 - (i) mark the relevant entry in the title sheet provisional,
 - (ii) enter in the appropriate section of the title sheet the name and designation of the true holder of the right affected by the inaccuracy (if any such person can be identified),
 - (b) may rectify the register if all those affected consent,
 - (c) where there is no such consent, must not rectify the register before the existence of the inaccuracy is judicially determined.

Commencement Information

I2 S. 81 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

Referral of questions to Lands Tribunal

82 Referral to the Lands Tribunal for Scotland

- (1) A person with an interest may refer a question relating to—
 - (a) the accuracy of the register, or
 - (b) what is needed to rectify an inaccuracy in the register,
 to the Lands Tribunal for Scotland.
- (2) The Lands Tribunal must, on determining the question, give notice to—
 - (a) the applicant,
 - (b) any other person appearing to them to have an interest, and
 - (c) the Keeper.
- (3) This section is without prejudice to any other right of recourse, whether under an enactment or under a rule of law.

Commencement Information

I3 S. 82 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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Keeper's right to be heard in proceedings

83 Proceedings involving the accuracy of the register

The Keeper is entitled to appear and be heard in any civil proceedings, whether before a court or tribunal, in which—

- (a) the accuracy of the register, or
- (b) what is needed to rectify an inaccuracy in the register,

is put in question.

Commencement Information

I4 [S. 83](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

Compensation in consequence of rectification

84 Rectification: compensation for certain expenses and losses

- (1) The Keeper must pay compensation for—
 - (a) reimbursement of reasonable extra-judicial legal expenses incurred by a person in securing rectification of the register, and
 - (b) any loss sustained by the person in consequence of the inaccuracy rectified.
- (2) A claimant is not required to exhaust other remedies before making a claim to such compensation.
- (3) Payment by the Keeper under this section does not extinguish any rights which the claimant may have against another person in respect of the loss compensated.
- (4) But it is a condition of any such payment that the claimant assigns any such rights to the Keeper.
- (5) Interest on a sum payable under this section runs from the date mentioned in subsection (6) until the sum in question is paid.
- (6) The date is—
 - (a) where the sum is payable by virtue of subsection (1)(a), the date on which the claimant paid the sum in question,
 - (b) where the sum is payable by virtue of subsection (1)(b), the date on which the loss was sustained.
- (7) The Scottish Ministers may by regulations make provision as to the rate of interest payable by virtue of subsection (5).

Commencement Information

I5 [S. 84](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

85 Rectification: circumstances where liability excluded

The Keeper has no liability to pay compensation under section 84—

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- (a) if the inaccuracy is caused other than by a change made by the Keeper to a title sheet or the cadastral map,
- (b) if the inaccuracy is consequent on an error in the cadastral map and that error was made in reasonable reliance on the base map,
- (c) in so far as the inaccuracy is in an entry made on an application being accepted by virtue of section 43(1) or under section 43(5),
- (d) in so far as the inaccuracy is caused by some act or omission on the part of the claimant,
- (e) in so far as the claimant's loss could have been avoided by the claimant taking certain measures which it would have been reasonable for the claimant to take,
- (f) in so far as the connection between the claimant's loss and the inaccuracy is too remote, or
- (g) for non-patrimonial loss.

Commencement Information

I6 [S. 85](#) 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\(3\)](#)