



# Land Registration etc. (Scotland) Act 2012

## 2012 asp 5

### PART 9

#### RIGHTS OF PERSONS ACQUIRING ETC. IN GOOD FAITH

##### *Leases*

#### **88 Acquisition from assigner without valid title**

- (1) This section applies where a person (“A”), who is not the tenant under a registered lease but—
  - (a) is shown in the title sheet as tenant, and
  - (b) is in possession of the subjects of the lease, purports to assign the lease.
- (2) The assignee (“B”) acquires the lease provided that the conditions in subsection (3) are met.
- (3) The conditions are that—
  - (a) the subjects of the lease have been in the possession, openly, peaceably and without judicial interruption—
    - (i) of A for a continuous period of at least 1 year, or
    - (ii) of A and then of B for periods which together constitute such a period,
  - (b) at no time during that period did the Keeper become aware that the register was inaccurate as a result of A (or B) not being the tenant,
  - (c) B is in good faith,
  - (d) the lease is extant,
  - (e) B would have acquired the lease had A been tenant when the lease was assigned,
  - (f) at no time during the period mentioned in paragraph (a) was the title sheet subject, by virtue of section 67, to a caveat relevant to the acquisition by B, and
  - (g) the Keeper warrants (or is to be taken to warrant) A’s title.
- (4) The date on which the lease is acquired by virtue of subsection (2) is—

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*Status: This is the original version (as it was originally enacted).*

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- (a) where subsection (5) applies, the date on which the deed of assignation is registered,
  - (b) where subsection (6) applies, the date on which the period of possession mentioned in that subsection expires.
- (5) This subsection applies where, as at the date of registration, the subjects of the lease have been in the possession, openly, peaceably and without judicial interruption—
- (a) of A for a continuous period of at least 1 year, or
  - (b) of A and then of B for periods which together constitute such a period.
- (6) This subsection applies where there is a continuous period of possession such as is mentioned in subsection (5) but that period, though it commences before registration on the application of B, does not expire until a date later than the date of registration.

**89 Acquisition from representative of assigner without valid title**

- (1) Section 88 also applies where a person (“P”), who is not entered in the title sheet as tenant but who would have power to assign the lease—
- (a) were A the tenant, or
  - (b) (where A has died) had A been the tenant,
- purports to assign it.
- (2) For the purposes of section 88, possession of the subjects of the lease by P is to be treated as if it were possession of the subjects by A.