



Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 2

REGISTRATION

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

Status: Point in time view as at 08/12/2014.

Changes to legislation: Land Registration etc. (Scotland) Act 2012, Section 43 is up to date with all changes known to be in force on or before 11 April 2024. 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)

- (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

II S. 43 in force at 8.12.2014 by [S.S.I. 2014/127](#), art. 2

Status:

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