

# Long Leases (Scotland) Act 2012

## 2012 asp 9

### PART 6

#### GENERAL AND MISCELLANEOUS

##### *Notices etc.*

#### 74 Service of notices

- (1) Service of a notice on a person under section 17(1)(a) or Part 4 must be effected—
  - (a) by delivering it to the person,
  - (b) by sending it to the person at a place mentioned in subsection (2)—
    - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000 (c.26)), or
    - (ii) by a postal service which provides for the delivery of the notice to be recorded,
  - (c) in a case where a notice sent under paragraph (b) is returned to the person who sent it with an intimation that it could not be delivered—
    - (i) by delivering it, or
    - (ii) by sending it by post,with that intimation to the Extractor of the Court of Session.
- (2) The place referred to in subsection (1)(b) is—
  - (a) the person's place of residence,
  - (b) the person's place of business,
  - (c) a postal address which the person ordinarily uses, or
  - (d) if none of those places or that address is known at the time of delivery or posting, whatever place is at that time the person's most recently known—
    - (i) place of residence,
    - (ii) place of business, or
    - (iii) postal address which the person ordinarily used.
- (3) For the purposes of this Act, any of the following is sufficient evidence of service of the notice—

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- (a) an acknowledgement in the prescribed form signed by the person on whom the notice is served,
  - (b) in the case of a notice sent under subsection (1)(b), a certificate in the prescribed form signed by the sender of the notice and accompanied by the postal receipt,
  - (c) in the case of a notice delivered or sent under subsection (1)(c), an acknowledgement of receipt by the Extractor on a copy of the notice.
- (4) The date on which a notice is served on a person is the date of delivery or (as the case may be) posting of the notice.
- (5) In this section, “notice” includes an instalment document.

## **75 Notices: pre-registration requirements**

- (1) This section applies in relation to any notice which is to be submitted for registration under section 8 or Part 2.
- (2) Except where it is not reasonably practicable to do so, the person who intends to execute the notice must, before so doing, send by post to the tenant under the qualifying lease (addressed to “The Tenant” where the name of that person is not known) a copy of—
- (a) the notice, and
  - (b) the prescribed explanatory note relating to the notice.
- (3) The person who executes the notice must, in the notice, state either—
- (a) that a copy of the notice has been sent in accordance with subsection (2), or
  - (b) that it was not reasonably practicable for such a copy to be sent (and the reasons why that was so).

## **76 Keeper’s duty as regards documents**

- (1) In relation to any notice submitted for registration under this Act, the Keeper is not required to determine whether the terms of section 68(2) or (as the case may be) 75(2) have been complied with.
- (2) In relation to any notice or (as the case may be) agreement submitted for registration under—
- (a) section 14, 17, 23, 24, 25, 26, 27 or 28, the Keeper is not required to determine whether, for the purposes of registering the notice or agreement, a qualifying condition is enforceable by the person submitting the notice or agreement for registration,
  - (b) section 14, the Keeper is not required to determine—
    - (i) in pursuance of subsection (3)(e) of that section, that an attempt to reach agreement has been made in accordance with section 21(3), or
    - (ii) where the condition specified under subsection (3)(f) of that section is the condition mentioned in subsection (4)(a) of that section, whether the terms of that condition are satisfied,
  - (c) section 17, the Keeper is not required to determine whether the requirements of section 17(1)(a) are satisfied, or
  - (d) section 24 to 26, the Keeper is not required to determine whether—

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- (i) for the purposes of subsection (1) of the section in question, a qualifying condition is imposed for the reasons mentioned in that subsection, or
  - (ii) the statement made in pursuance of section 24(2)(g), 25(2)(f) or (as the case may be) 26(2)(g) is correct.
- (3) The Keeper is not required to determine for the purposes of section 8(7) whether immediately before the appointed day a sporting right is still enforceable.
- (4) The Keeper is not required to determine for the purposes of section 16, 19, 23(7), 24(4), 25(4), 26(4), 27(5) or 28(5) whether immediately before the appointed day a qualifying condition is, or is still, enforceable, or by whom.
- (5) In relation to any order submitted for registration under section 64(1)(c)(ii), the Keeper is not required to determine that an attempt to reach agreement has been made in accordance with section 69(3).

#### **77 Disputed notices: reference to Lands Tribunal**

- (1) A dispute arising in relation to a notice registered under this Act may be referred to the Lands Tribunal.
- (2) In determining the dispute, the Lands Tribunal may make such order as it thinks fit discharging or, to such extent as may be specified in the order, restricting the notice in question.
- (3) An order under subsection (2) has effect in respect of a third party when an extract of the order is registered.

#### **78 Certain documents registrable despite initial rejection**

- (1) This section applies where one of the following is rejected by the Keeper—
- (a) a notice submitted before the appointed day for registration under section 8(2) or Part 2,
  - (b) an agreement submitted before the appointed day for registration under section 17(1)(c),
  - (c) an exemption notice submitted before the day falling 2 months before the appointed day for registration under section 63, or
  - (d) an agreement submitted before the day falling 2 months before the appointed day for registration under section 64(1)(c).
- (2) Where a court or the Lands Tribunal determines the notice or agreement is registrable, it may be registered not later than the day falling 2 months after the day on which the court or the Lands Tribunal made the determination.
- (3) An exemption notice or an agreement mentioned in subsection (1)(d) which is registered under subsection (2) on or after the day falling 2 months before the appointed day is to be treated as if it had been registered before that day.
- (4) Any other notice or agreement which is registered under subsection (2) on or after the appointed day is to be treated as if it had been registered before the appointed day.
- (5) The Scottish Ministers may by order—

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- (a) specify a date after which (or a period after the expiry of which) notices and agreements cannot be registered under subsection (2),
  - (b) provide that subsection (2) applies only where the application to the court or to the Lands Tribunal which resulted in the determination is made within such period as the order may specify.
- (6) In this section, “court” means Court of Session or sheriff.