



# Scottish Register of Tartans Act 2008

## 2008 asp 7

### *Amendment of Register*

#### **10 Amendment of Register by request**

- (1) Any person (a “requester”) may request the Keeper to amend an entry in the Register.
- (2) The requester must—
  - (a) set out in writing the reasons for the amendment, and
  - (b) submit such further information or documents as the Keeper considers necessary or expedient.
- (3) Where the requester has the right to authorise the Keeper to amend the entry, the requester must—
  - (a) so authorise the Keeper,
  - (b) certify that the requester has such a right, and
  - (c) where—
    - (i) the amendment relates to a person's name or address in relation to which certification was given under section 6(3)(c), and
    - (ii) that person has given the requester written consent to the amendment, certify that such consent has been given.
- (4) Where the requester does not have the right to authorise the Keeper to amend the entry, the requester must certify that—
  - (a) the requester does not have such a right, and
  - (b) so far as can reasonably be ascertained by the requester, there appears to be no other person who has that right.
- (5) The requester must indemnify the Keeper in respect of any liability to meet any damages or expenses incurred as a result of, or in connection with, the amendment.
- (6) A request under subsection (1) must be accompanied by the appropriate fee.
- (7) Where the requester represents a group of persons which is not a body corporate, the requester may include in the request—
  - (a) any capacity in which the requester is acting,
  - (b) any name and address of the group.

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- (8) The Keeper must refuse a request if, in the view of the Keeper—
  - (a) any of the requirements in subsections (2) to (6) has not been met,
  - (b) the request gives rise to a question which it would be appropriate for the person making the request to have resolved or clarified elsewhere (such as by a court).
- (9) In any other case, the Keeper must accept a request if, having taken into account the reasons mentioned in subsection (2)(a) and all the other circumstances of the case, the Keeper considers it is appropriate to do so.
- (10) Where the request is accepted, the Keeper must determine how the entry is to be amended and amend it accordingly.
- (11) The Keeper must notify the requester of the decision to accept or refuse the request.
- (12) Such notification must be in writing and include—
  - (a) in the case of a refusal, the Keeper's reasons for the refusal,
  - (b) in the case of an acceptance, notification of the amendment (by providing a copy of the amended entry or otherwise).
- (13) In respect of any matter relating to a request, the Keeper may, in deciding whether to accept or refuse the request, consult such persons as the Keeper considers appropriate.
- (14) Where the amendment requested is one which could be made by the Keeper under section 12(1), subsections (2) to (13) of this section do not apply.

## **11 Amendment of Register: request other than by applicant**

- (1) This section applies where—
  - (a) a request under section 10(1) relates to an entry made pursuant to an application by a person (the “original applicant”),
  - (b) the request is made by a person (the “third party”) other than the original applicant, and
  - (c) the request is in respect of an amendment other than one which could be made by the Keeper under section 12(1).
- (2) The Keeper must where practicable send a copy of the request to the original applicant and invite the original applicant to submit written comments.
- (3) The Keeper must send a copy of any comments received from the original applicant to the third party and invite the third party to submit written comments.
- (4) Any comments under subsections (2) and (3) must be submitted, in each case, within such period (not being less than 28 days) as the Keeper may specify.
- (5) The Keeper may request the original applicant to submit such further information or documents as the Keeper considers necessary or expedient.
- (6) The Keeper must where practicable notify the original applicant of the decision to accept or refuse the request.
- (7) Subsection (12) of section 10 applies to a notification under subsection (6) as it applies to a notification under subsection (11) of that section.

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## **12 Amendment of Register: corrections**

- (1) The Keeper may, at any time, amend an entry in the Register to correct any typographical, clerical or other administrative error.
- (2) Where an amendment under subsection (1) is made, the Keeper may notify such persons as the Keeper considers appropriate as to the amendment.
- (3) Where such an amendment relates to a tartan in respect of which a certificate of registration has been issued, the Keeper may issue an amended certificate of registration.

## **13 Certificates of registration following amendment**

- (1) Subsection (2) applies where—
  - (a) an entry in the Register is amended by virtue of a request under section 10(1), and
  - (b) the entry was made pursuant to an application.
- (2) The Keeper may, in appropriate cases and at the request of the applicant, send the applicant an amended certificate of registration.
- (3) The applicant must pay the appropriate fee for such a certificate.
- (4) Subsection (3) does not apply where the amendment is one which could have been made by the Keeper under section 12.

**Changes to legislation:**

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