Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 2

REGISTRATION

Applications for registration

21 Application for registration of deed

(1) A person may apply to the Keeper for registration of a registrable deed.

(2) The Keeper must accept an application under subsection (1) to the extent the applicant satisfies the Keeper that, as at the date of application, the general application conditions are met and—

(a) where the application is made in respect of a disposition of, or a notice of title to, an unregistered plot, the conditions set out in section 23 are met,

(b) where section 25 applies, the conditions set out in that section are met,

(c) in any other case, the conditions set out in section 26 are met.

(3) To the extent the applicant does not so satisfy the Keeper, the Keeper must reject the application.

(4) Subsection (2) is subject to section 45(5) **[**[F1]and paragraphs 1 to 5 of schedule 1A**]**.

[[F2](4A)**]** Schedule 1A makes provision about certain land transactions involving overseas entities.

[[F3](5) For the purposes of this section, submission by electronic means of a copy of the deed is sufficient evidence of the original for the purposes of accepting an application for registration.

(6) But subsection (5) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper's website as being acceptable.

(7) In subsection (5), the reference to submission by electronic means is to submission—

(a) by means of an electronic communications network (for example as an attachment to an email), or

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(b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.

(8) In this section—

"electronic communications network" has the meaning given by section 32 of the Communications Act 2003,

"the Keeper's website" means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland.**]**

Textual Amendments

F1 Words in s. 21(4) inserted (5.9.2022) by Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), s. 69(1), **Sch. 4 para. 3(a)**; S.I. 2022/876, reg. 4(c)

F2 S. 21(5) renumbered as s. 21(4A) (26.10.2023 for specified purposes, 4.3.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), **ss. 177(2)**, 219(1)(2)(b); S.I. 2024/269, reg. 2(z60)

F3 S. 21(5)-(8) inserted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 33(2)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))

Commencement Information

I1 S. 21 in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

22 General application conditions

(1) The general application conditions are—

(a) the application is such that the Keeper is able to comply, in respect of it, with such duties as the Keeper has under Part 1,

(b) the application does not relate to a souvenir plot,

(c) the application does not fall to be rejected by virtue of section 6 or 9G of the Requirements of Writing (Scotland) Act 1995 (c.7) (registration of document) or of a prohibition in an enactment,

(d) the application is in the form (if any) prescribed by land register rules, and

(e) either—

(i) such fee as is payable for registration is paid, or

(ii) arrangements satisfactory to the Keeper are made for payment of that fee.

(2) In subsection (1)(b), "souvenir plot" means a plot of land which—

(a) is of inconsiderable size and of no practical utility, and

(b) is neither—

(i) a registered plot, nor

(ii) a plot the ownership of which has, at any time, separately been constituted or transferred by a document recorded in the Register of Sasines.

Commencement Information

I2 S. 22 in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

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23 Conditions of registration: transfer of unregistered plot

(1) The conditions are that—

(a) the application is made by the grantee of the disposition or as the case may be the person in whose favour is the notice of title,

(b) the deed is valid,

(c) the deed so describes the plot as to enable the Keeper to delineate its boundaries on the cadastral map,

(d) where within the plot there is a lesser area in respect of which a registrable encumbrance is constituted there is included in, or submitted with, the application a plan or description sufficient to enable the Keeper to delineate the boundaries of the lesser area on the cadastral map,

(e) there is included in the application a description of every public right of way (by whatever means) over or through the plot in so far as known to the applicant.

(2) Subsection (1)(c) and (d) do not apply—

(a) if the plot to which the application relates is a flat in a flatted building, and

(b) either—

(i) the flatted building is, by virtue of section 16, represented as a single cadastral unit on the cadastral map, or

(ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so represented.

(3) Despite subsection (2), subsection (1)(c) and (d) apply in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.

(4) Subsection (1)(d) does not apply in relation to an encumbrance which consists of—

(a) a right to lead a pipe, cable, wire or other such enclosed unit over or under land,

(b) a servitude created other than by registration.

(5) In this section, "the deed" means the disposition or as the case may be the notice of title.

Commencement Information

I3 S. 23 in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

24 Circumstances in which section 25 applies

(1) Section 25 applies where any of subsections (2) to (7) apply.

(2) This subsection applies where—

(a) the application is in respect of a grant of a lease, and

(b) the subjects of the lease consist of or form part of an unregistered plot of land.

(3) This subsection applies where—

(a) the application is in respect of an assignation of an unregistered lease, and

(b) the subjects of the lease consist of or form part of an unregistered plot of land.

(4) This subsection applies where—

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(a) the application is in respect of a sublease granted by a tenant, and
(b) the subjects of the tenant's lease consist of or form part of an unregistered plot of land.

(5) This subsection applies where—
(a) the application is in respect of a deed registrable by virtue of section 48(4), and
(b) the land to which the deed relates consists of or forms part of an unregistered plot of land.

(6) This subsection applies where—
(a) the application is in respect of a notice of title to a subordinate real right,
(b) the notice of title is registrable by virtue of section 4A (as inserted by section 53(3)) of the Conveyancing (Scotland) Act 1924 (c.27),
(c) the last completed title to the subordinate real right is recorded in the Register of Sasines, and
(d) the land in respect of which the subordinate real right is constituted consists of or forms part of an unregistered plot of land.

(7) This subsection applies where—
(a) the application is in respect of a standard security granted over an unregistered subordinate real right, and
(b) the land in respect of which the subordinate real right is constituted consists of or forms part of an unregistered plot of land.

Commencement Information
I4 S. 24 in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

25 Conditions of registration: certain deeds relating to unregistered plots

(1) The conditions are that—
(a) the deed is valid,
(b) the deed so describes the plot as to enable the Keeper to delineate its boundaries on the cadastral map,
(c) where within the plot there is a lesser area in respect of which a registrable encumbrance is constituted there is included in, or submitted with, the application a plan or description sufficient to enable the Keeper to delineate the boundaries of the lesser area on the cadastral map,
(d) there is included in the application a description of every public right of way (by whatever means) over or through the plot in so far as known to the applicant.

(2) Subsection (1)(b) and (c) do not apply—
(a) if the plot to which the deed relates is a flat in a flatted building, and
(b) either—
(i) the flatted building is, by virtue of section 16, represented as a single cadastral unit in the cadastral map, or
(ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so represented.

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(3) Despite subsection (2), subsection (1)(b) and (c) apply in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.

(4) Subsection (1)(c) does not apply in relation to an encumbrance which consists of—
- (a) a right to lead a pipe, cable, wire or other such enclosed unit over or under land,
- (b) a servitude created other than by registration.

(5) In this section and sections 30 and 41 in so far as they apply by virtue of this section, references to the plot are to be read as references to—
- (a) where this section applies by virtue of section 24(2), (3) or (4), the area of land which forms the subjects of the lease,
- (b) where this section applies by virtue of section 24(5), the area of land to which the deed relates,
- (c) where this section applies by virtue of section 24(6) or (7), the area of land in respect of which the subordinate real right is constituted.

Commencement Information

I5 S. 25 in force at 8.12.2014 by S.S.I. 2014/127, **art. 2**

26 Conditions of registration: deeds relating to registered plots

(1) The conditions are that—
- (a) the deed is valid,
- (b) the deed relates to a registered plot of land,
- (c) the deed narrates the title number of each title sheet to which the application relates, and
- (d) the deed, in so far as it relates to part only of a plot of land or of the subjects of a lease, so describes the part as to enable the Keeper to delineate on the cadastral map the boundaries of the part.

(2) Where the title number of the title sheet of a sharing plot is narrated in the deed, subsection (1)(c) does not require the narration of the title number of the title sheet of the shared plot.

(3) Subsection (1)(d) does not apply if—
- (a) the part to which the deed relates is a flat in a flatted building, and
- (b) either—
  - (i) the flatted building is, by virtue of section 16, represented as a single cadastral unit in the cadastral map, or
  - (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so depicted.

(4) Despite subsection (3), subsection (1)(d) applies in so far as the part includes a pertinent outwith the flatted building, being a pertinent only of the part.

(5) Subsection (1)(d) does not apply in the case of an application which relates to registration to create as a servitude a right to lead a pipe, cable, wire or other such enclosed unit over or under land.

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Commencement Information

I6 S. 26 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)