Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 7

KEEPER'S WARRANTY

Claims under warranty

77 Claims under Keeper's warranty

(1) The Keeper must pay compensation for loss incurred as a result of a breach of the Keeper's warranty.

(2) Liability to pay such compensation arises only if and when the inaccuracy giving rise to the claim for compensation is rectified.

(3) A claimant is not required to exhaust other remedies before making a claim to such compensation.

(4) Payment by the Keeper under this section does not extinguish any rights which the claimant may have against another person in respect of the loss compensated.

(5) But it is a condition of any such payment that the claimant assign any such rights to the Keeper.

78 Claims under warranty: circumstances where liability excluded

The Keeper has no liability to pay compensation by virtue of section 77(1)—

(a) if the inaccuracy is consequent upon an error in the cadastral map and that error was made in reasonable reliance upon the base map,

(b) if the existence of the inaccuracy was, or ought to have been, known to—

(i) the applicant, or

(ii) any person acting as solicitor or other legal adviser to the applicant,

at the time of registration,

(c) in so far as the inaccuracy is attributable to a failure of—

(i) the applicant, or

(ii) any person acting as solicitor or other legal adviser to the applicant,

to comply with the duty owed to the Keeper under section 111,

(d) in so far as the claimant's loss could have been avoided by the applicant, owner or claimant taking certain measures which it would have been reasonable for the applicant, owner or claimant to take,

(e) in so far as the connection between the claimant's loss and the inaccuracy is too remote, or

(f) for non-patrimonial loss.

79 Claims under warranty: quantification of compensation

(1) Compensation payable by virtue of section 77(1)—

(a) is, in so far as it is not compensation mentioned in paragraph (b), to be quantified as at the date on which the inaccuracy giving rise to the claim is rectified, and

(b) is to include—

(i) reimbursement of reasonable extra-judicial legal expenses, and

(ii) compensation for any other consequential loss.

(2) Interest on a sum so payable runs from the date mentioned in subsection (3) until the sum in question is paid.

(3) The date is—

(a) where the sum is payable other than by virtue of subsection (1)(b), the date mentioned in subsection (1)(a),

(b) where the sum is payable by virtue of subsection (1)(b)(i), the date on which the claimant paid the sum in question, and

(c) where the sum is payable by virtue of subsection (1)(b)(ii), the date on which the loss was sustained.

(4) The Scottish Ministers may by regulations make provision as to the rate of interest payable by virtue of subsection (2).