
Changes to legislation: There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 4

LAND OWNERSHIP AND TRANSACTIONS: SCOTLAND

PART 1

AMENDMENTS

Land Registration etc. (Scotland) Act 2012 (asp 5)

9 After schedule 1 insert—

“SCHEDULE
1A

Section 21

LAND TRANSACTIONS: OVERSEAS ENTITIES

Cases where Keeper must reject application under section 21

- 1 (1) This paragraph applies where—
 - (a) a person applies under section 21 for registration of a qualifying registrable deed, and
 - (b) if the application is accepted by the Keeper—
 - (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, or
 - (ii) an overseas entity would be the tenant under a registered lease.
- (2) The Keeper must reject the application unless the overseas entity is—
 - (a) a registered overseas entity, or
 - (b) an exempt overseas entity.
- (3) Sub-paragraph (2) does not apply where—
 - (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
 - (b) the deed in respect of which the application is made is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.
- 2 (1) This paragraph applies where—

Changes to legislation: *There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)*

- (a) a person applies under section 21 for registration of a qualifying registrable deed or a registrable deed which is a standard security,
 - (b) the granter of the deed is an overseas entity whose interest is registered, having been so registered on or after 8 December 2014, and
 - (c) as at the date of delivery of the deed, the entity was not a registered overseas entity or an exempt overseas entity.
- (2) The Keeper must reject the application unless one of the following conditions is met—
- (a) the application is made—
 - (i) in pursuance of a statutory obligation or court order, or
 - (ii) in respect of a transfer of ownership or other event that occurs by operation of law,
 - (b) the application is made in pursuance of a contract entered into before the later of the dates mentioned in sub-paragraph (3);
 - (c) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014;
 - (d) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease;
 - (e) the Scottish Ministers give consent under paragraph 7(2) to the registration of the deed;
 - (f) the deed is granted by a specified insolvency practitioner in specified circumstances.
- (3) The dates are—
- (a) the date on which the granter’s interest was registered;
 - (b) the commencement date.
- (4) In sub-paragraph (2)(d), “relevant legislation” means Part 2, 3 or 3A of the Land Reform (Scotland) Act 2003 or Part 5 of the Land Reform (Scotland) Act 2016 (being provisions which confer on certain community bodies etc. the right to buy certain types of land or the interest of a tenant under a lease of certain types of land).
- (5) In sub-paragraph (2), in paragraph (f)—
- “specified circumstances” means circumstances specified in regulations made by the Scottish Ministers for the purposes of that paragraph;
 - “specified insolvency practitioner” means an insolvency practitioner of a description specified in regulations made by the Scottish Ministers for the purposes of that paragraph.

Cases where Keeper must reject application to register notice of title

- 3 (1) This paragraph applies where—
- (a) by virtue of section 4A of the Conveyancing (Scotland) Act 1924, a person makes an application under section 21 for

Changes to legislation: *There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)*

- registration of a notice of title completing title in respect of a qualifying registrable deed, and
- (b) if the application is accepted by the Keeper—
- (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, or
 - (ii) an overseas entity would be the tenant under a registered lease.
- (2) The Keeper must reject the application unless the overseas entity is—
- (a) a registered overseas entity, or
 - (b) an exempt overseas entity.
- (3) Sub-paragraph (2) does not apply where—
- (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
 - (b) the deed in respect of which title is being completed is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.
- 4 (1) This paragraph applies where—
- (a) by virtue of section 4A of the Conveyancing (Scotland) Act 1924, a person makes an application under section 21 for registration of a notice of title completing title in respect of—
 - (i) a qualifying registrable deed, or
 - (ii) a registrable deed which is a standard security,
 - (b) the grantor of the deed is an overseas entity whose interest is registered, having been so registered on or after 8 December 2014, and
 - (c) as at the date on which the application for registration of the notice of title was made, the entity was not a registered overseas entity or an exempt overseas entity.
- (2) The Keeper must reject the application unless one of the following conditions is met—
- (a) the application is made—
 - (i) in pursuance of a statutory obligation or court order, or
 - (ii) in respect of a transfer of ownership or other event that occurs by operation of law,
 - (b) the application is made in pursuance of a contract entered into before the later of the dates mentioned in sub-paragraph (3);
 - (c) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014;
 - (d) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease;
 - (e) the Scottish Ministers give consent under paragraph 7(4) to the registration of the notice of title;

Changes to legislation: There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)

- (f) the deed in respect of which title is being completed is granted by a specified insolvency practitioner in specified circumstances.
- (3) The dates are—
 - (a) the date on which the granter’s interest was registered;
 - (b) the commencement date.
- (4) In sub-paragraph (2)(d), “relevant legislation” means Part 2, 3 or 3A of the Land Reform (Scotland) Act 2003 or Part 5 of the Land Reform (Scotland) Act 2016 (being provisions which confer on certain community bodies etc. the right to buy certain types of land or the interest of a tenant under a lease of certain types of land).
- (5) In sub-paragraph (2)(f) “specified circumstances” and “specified insolvency practitioner” have the meanings given by paragraph 2(5).

Case where Keeper must reject prescriptive application

- 5 (1) This paragraph applies where—
 - (a) an application under section 21 is received by the Keeper by virtue of section 43(1) or (5), and
 - (b) if the application is accepted by the Keeper—
 - (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, and
 - (ii) that entry would be marked as provisional under section 44(1).
- (2) The Keeper must reject the application unless the overseas entity is—
 - (a) a registered overseas entity, or
 - (b) an exempt overseas entity.

Case where Keeper must reject voluntary application

- 6 (1) This paragraph applies where—
 - (a) an application is made under section 27, and
 - (b) if the application is accepted by the Keeper, the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land.
- (2) The Keeper must reject the application unless the overseas entity is—
 - (a) a registered overseas entity, or
 - (b) an exempt overseas entity.

Consent to registration of certain deeds that cannot otherwise be registered

- 7 (1) Sub-paragraph (2) applies where the Keeper would be required by paragraph 2(2) to reject an application for registration of a qualifying registrable deed or a registrable deed which is a standard security.

Changes to legislation: There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)

- (2) The Scottish Ministers may consent to registration of the deed if satisfied—
 - (a) that at the time of delivery of the deed the person in whose favour it was granted did not know, and could not reasonably have been expected to know, of the duty imposed on the Keeper by paragraph 2(2), and
 - (b) that in all the circumstances it would be unjust for the deed not to be registered.
- (3) Sub-paragraph (4) applies where the Keeper would be required by paragraph 4(2) to reject an application for registration of a notice of title in respect of a qualifying registrable deed or a registrable deed which is a standard security.
- (4) The Scottish Ministers may consent to registration of the notice of title if satisfied—
 - (a) that at the time of delivery of the qualifying registrable deed or (as the case may be) registrable deed which is a standard security the person in whose favour the deed was granted did not know, and could not reasonably have been expected to know, of the duty imposed on the Keeper by paragraph 4(2), and
 - (b) that in all the circumstances it would be unjust for the notice of title not to be registered.
- (5) The Scottish Ministers may by regulations make provision in connection with applications for consent, and the giving of consent, under sub-paragraphs (2) and (4).
- (6) The regulations may, for example, make provision about—
 - (a) who may apply;
 - (b) evidence;
 - (c) time limits.

Partially executed deeds

- 8 For the purposes of paragraphs 2(1)(c) and 7(2)(a) and (4)(a), a qualifying registrable deed or registrable deed which is a standard security is to be treated, as at the date of delivery of the deed, as having been granted even if at that time it has been executed by the overseas entity only.

Interpretation

- 9 (1) In this schedule—
 - “the commencement date” means the day on which Part 1 of Schedule 4 to the Economic Crime (Transparency and Enforcement) Act 2022 comes into force;
 - “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6) of the Economic Crime (Transparency and Enforcement) Act 2022;
 - “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;

Changes to legislation: There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9. (See end of Document for details)

“qualifying registrable deed” means a registrable deed which is—

- (a) a disposition;
- (b) a lease;
- (c) an assignation of a lease;

“register of overseas entities” means the register kept under section 3 of the Economic Crime (Transparency and Enforcement) Act 2022;

“registered overseas entity” means an overseas entity that is registered in the register of overseas entities (but see sub-paragraphs (2) and (3)).

- (2) For the purposes of this Schedule, an overseas entity that fails to comply with the duty in section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 (updating duty) is not to be treated as being a “registered overseas entity” until it remedies the failure.
- (3) For the purpose of sub-paragraph (2), an overseas entity “remedies” the failure when it delivers the statements and information mentioned in section 7(1)(a), (b) and (c) of the 2022 Act.”

Commencement Information

- I1** Sch. 4 para. 9 not in force at Royal Assent, see [s. 69](#)
- I2** Sch. 4 para. 9 in force at 5.9.2022 by [S.I. 2022/876](#), [reg. 4\(c\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Economic Crime (Transparency and Enforcement) Act 2022, Paragraph 9.