



# Scottish Register of Tartans Act 2008

## 2008 asp 7

### *Applications to register tartans*

#### **6 The application**

- (1) Any person may apply to the Keeper for registration of a tartan.
- (2) An application must be in writing and be signed by the applicant.
- (3) Where the applicant has the right to authorise the Keeper to register the tartan, the applicant must—
  - (a) so authorise the Keeper,
  - (b) certify that the applicant has such a right, and
  - (c) where another person who has such a right has given the applicant written consent to the inclusion of that person's name and address on the Register, certify that such consent has been given.
- (4) Where the applicant does not have the right to authorise the Keeper to register the tartan, the applicant must certify that—
  - (a) the applicant does not have such a right, and
  - (b) so far as can reasonably be ascertained by the applicant, there appears to be no other person who has that right.
- (5) The applicant 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 registration.
- (6) An application must be in such form as the Keeper may from time to time specify; and different forms may be specified for different purposes.
- (7) The application must include—
  - (a) the name and address of the applicant,
  - (b) a coloured photograph or other coloured pictorial representation of the tartan,
  - (c) a description of the tartan including its colours, thread count and sett,
  - (d) the name of the tartan and the nature of the applicant's association with the name,
  - (e) where the applicant can certify as mentioned in subsection (3)(c), any name and address to which such certification relates, and

- (f) such further information as the Keeper may specify.
- (8) No application may be made to register a tartan with a name which is the same as the name of a tartan in respect of which an entry in the Register already exists.
- (9) The application may include a woven textile sample of the tartan of such size and such form as the Keeper may specify.
- (10) An application must be accompanied by the appropriate fee.
- (11) Where an application is made by a person representing a group of persons which is not a body corporate, the person may—
  - (a) include in the application—
    - (i) any capacity in which the person is acting,
    - (ii) any name and address of the group, and
  - (b) request and authorise the Keeper to record any such name and address in the Register.
- (12) In subsection (7)—
  - (a) in paragraph (b), the coloured photograph or other coloured pictorial representation—
    - (i) may, in either case, be in electronic form, and
    - (ii) must comply with such requirements as the Keeper may specify,
  - (b) in paragraph (d) “association”, in relation to the name of the tartan, includes relationship to, connection with or interest in the name.

## **7 Determination of application**

- (1) The Keeper may request an applicant to submit such further information or documents as the Keeper considers necessary or expedient.
- (2) The Keeper must refuse an application if—
  - (a) in the view of the Keeper—
    - (i) any of the requirements in section 6 has not been met,
    - (ii) the application relates to a design which is not a tartan,
    - (iii) the application relates to a tartan which is the same as, or too similar to, a tartan in respect of which an entry in the Register already exists,
    - (iv) the applicant’s association with the name of the tartan is insufficient or insubstantial,
    - (v) the name of the tartan is undesirable, or
    - (vi) the application gives rise to a question which it would be appropriate for the applicant to have resolved or clarified elsewhere (such as by a court), or
  - (b) the applicant has not provided any information or documents requested under subsection (1) within a reasonable period (or such longer period as the Keeper may specify).
- (3) In any other case, the Keeper must accept an application.
- (4) The Keeper must notify the applicant in writing as to whether the application has been accepted or refused.
- (5) Where an application is refused, the Keeper—

- (a) must provide the applicant with reasons for the refusal, and
  - (b) may provide the applicant with advice in relation to any further application.
- (6) In reaching a view under subsection (2)(a), the Keeper may consult such persons as the Keeper considers appropriate.

## **8 Refused applications: reconsideration**

- (1) Where an application is refused under any of sub-paragraphs (ii) to (v) of paragraph (a) of subsection (2) of section 7, or paragraph (b) of that subsection, the applicant may request the Keeper to reconsider the application.
- (2) Any such request must—
  - (a) be made within 2 months of the date on which the applicant is notified of the refusal,
  - (b) state why the request is being made, and
  - (c) be accompanied by the appropriate fee.
- (3) Where the requirements in subsection (2) are met, the Keeper must reconsider the application.
- (4) Where an application is accepted following reconsideration under this section, the Keeper must reimburse the applicant in respect of the fee paid under subsection (2)(c).
- (5) Section 7 applies to an application being reconsidered under this section as it applies to an application being considered under that section.

## **9 Registration and request for a woven sample**

- (1) Where an application is accepted, the Keeper must make an entry in the Register in respect of the tartan to which the application relates.
- (2) An entry is to contain such particulars as the Keeper thinks fit (including any information contained in the application to which the entry relates).
- (3) Following the making of an entry, the Keeper must send the applicant, in paper form, a certificate of registration.
- (4) The certificate is to contain such information as the Keeper may from time to time specify; and such specification may make different provision for different purposes.
- (5) On payment of the appropriate fee by the applicant, the Keeper may send the applicant a copy of the certificate of registration.
- (6) Where an application did not include a woven textile sample as mentioned in section 6(9), the Keeper may, when sending a certificate of registration to an applicant or at any later time, request the applicant to submit such a sample.