



Land Registration etc. (Scotland) Act 2012

2012 asp 5

PART 1

THE LAND REGISTER

The Land Register of Scotland

1 The Land Register of Scotland

- (1) There is to continue to be a public register of rights in land in Scotland (which is to continue to be known as the “Land Register of Scotland”).
- (2) The register is to continue to be under the management and control of the Keeper of the Registers of Scotland.
- (3) The register is to continue to have a seal.
- (4) Subject to the provisions of this Act, the register is to be in such form (which may be, or be in part, an electronic form) as the Keeper considers appropriate.
- (5) The Keeper must take such steps as appear reasonable to the Keeper to protect the register from—
 - (a) interference,
 - (b) unauthorised access, and
 - (c) damage.

Structure and contents of the register

2 The parts of the register

- The Keeper must make up and maintain, as parts of the register—
- (a) the title sheet record,
 - (b) the cadastral map,
 - (c) the archive record, and
 - (d) the application record.

Title sheets and the title sheet record

3 Title sheets and the title sheet record

- (1) The Keeper must make up and maintain a title sheet for each registered plot of land.
- (2) The Keeper may make up and maintain a title sheet for a registered lease.
- (3) The title sheet record is the totality of all such title sheets.
- (4) A plot of land is an area or areas of land all of which are owned by one person, or one set of persons.
- (5) A separate tenement constitutes a plot of land for the purposes of this Act.
- (6) Subject to subsections (2) and (7), there is to be only one title sheet for each plot of land.
- (7) The Keeper need not make up and maintain a title sheet for a plot of land which is a pertinent of another plot of land (or of two or more other plots of land) but may instead include it in the title sheet of the other plot or plots of land of which it is a pertinent.

4 Title and lease title numbers

- (1) The Keeper must assign a title number to—
 - (a) the title sheet of each registered plot of land, and
 - (b) where a registered lease has a title sheet, to that title sheet.
- (2) A title number is an unique identifier consisting of numerals or of letters and numerals.

5 Structure of title sheets

- (1) A title sheet is to comprise—
 - (a) a property section,
 - (b) a proprietorship section,
 - (c) a securities section, and
 - (d) a burdens section.
- (2) A section of a title sheet may be sub-divided if and as the Keeper considers appropriate.

6 The property section of the title sheet

- (1) The Keeper must enter in the property section of the title sheet—
 - (a) a description—
 - (i) of the plot of land (being a description by reference to the cadastral map),
 - (ii) of the nature of the proprietor's right in the plot of land, and
 - (iii) if the plot is a separate tenement, of the nature of the tenement,
 - (b) the particulars of any incorporeal pertinents (including, if there is a burdened property, the particulars of that property in so far as known),
 - (c) any agreement registered under section 66(2),
 - (d) any entry required under section 18(2)(a) or paragraph 7(a) of schedule 1,

- (e) if the title sheet is a lease title sheet, the particulars of the lease, and
 - (f) where there is for the area of land another title sheet (as for example for a plot which is a separate tenement), the title number of that other title sheet.
- (2) Paragraph (f) of subsection (1) does not apply where the other title sheet is the title sheet of a flat in a flatted building.

7 The proprietorship section of the title sheet

- (1) The Keeper must enter in the proprietorship section of the title sheet—
- (a) the name and designation of the proprietor, and
 - (b) in the case of ownership in common, the respective shares of the proprietors.
- (2) Paragraph (a) of subsection (1) is subject to section 18(1)(b) and to paragraph 6(b) of schedule 1; and paragraph (b) of that subsection is subject to sections 16(2)(b) and 18(2)(b), to paragraph 7(b) of schedule 1 and to paragraphs 8(b) and 10 of schedule 4.

8 The securities section of the title sheet

- (1) The Keeper must enter in the securities section of the title sheet particulars of any heritable security over the right in land to which the title sheet relates (including the name and designation of the creditor in the security).
- (2) This section is subject to section 18(3)(b) and to paragraph 8(b) of schedule 1.

9 The burdens section of the title sheet

- (1) The Keeper must enter in the burdens section of the title sheet—
- (a) where the right in land to which the title sheet relates is encumbered with a title condition—
 - (i) the terms of the title condition,
 - (ii) a description of any benefited property (in so far as known to the Keeper), and
 - (iii) if the title condition is a personal real burden, the name and designation of the person who has title to enforce it,
 - (b) where there is a long lease (other than a long sub-lease) which has real effect, that fact,
 - (c) in a case where the title sheet is a lease title sheet, where there is a long sub-lease (other than a long sub-sub-lease) which has real effect, that fact,
 - (d) in so far as known to the Keeper, any public right of way (by whatever means) over or through the land,
 - (e) particulars of any path order made under section 22 of the Land Reform (Scotland) Act 2003 ([asp 2](#)) (compulsory powers to delineate paths in land in respect of which access rights are exercisable), and
 - (f) any other encumbrance the inclusion of which in the register is permitted or required, expressly or impliedly, by an enactment and the name and designation of the person who has title to enforce that encumbrance.
- (2) In subsection (1)—
- “encumbrance” does not include a heritable security,
 - “long lease” means—

- (a) a lease exceeding 20 years, or
- (b) a lease which includes provision (however expressed) requiring the landlord to renew the lease at the tenant's request as a result of which (and without any subsequent agreement express or implied between the landlord and tenant) the total duration could exceed 20 years.

(3) This section is subject to section 18(4) and to paragraph 9 of schedule 1.

10 What is entered or incorporated by reference in a title sheet

(1) The Keeper must, in addition to what is to be entered under sections 6 to 9, enter the matters mentioned in subsection (2) in a title sheet.

(2) The matters are—

- (a) any statement made by virtue of any of subsections (3) and (4)(b) of section 75 or subsection (5)(a) of section 76,
- (b) particulars of any special destination,
- (c) a reference to an entry in the Register of Inhibitions made under section 32(2),
- (d) the terms of any caveat, warrant for which is granted under section 67(3), and
- (e) such other information (if any) as the Keeper considers appropriate.

(3) The Keeper may incorporate by reference in a title sheet—

- (a) a document in the archive record, or
- (b) a deed in any other register under the management and control of the Keeper or of the Keeper of the Records of Scotland.

(4) The Keeper must not enter or incorporate by reference in a title sheet any rights or obligations except in so far as their entry is authorised by an enactment.

(5) The entry or incorporation by reference in a title sheet of any right or obligation, in so far as not so authorised—

- (a) does not constitute notice of that right or obligation, and
- (b) is without any other effect.

(6) Subsection (2)(b) is subject to section 18(3)(c) and to paragraph 8(c) of schedule 1.

The cadastral map

11 The cadastral map

(1) The cadastral map is a map—

- (a) showing the totality of registered geospatial data (other than supplementary data in individual title sheets),
- (b) showing for each cadastral unit—
 - (i) the cadastral unit number,
 - (ii) the boundaries of the unit, and
 - (iii) the title number of any registered lease relating to the unit, and
- (c) otherwise depicting registered rights in such manner as the Keeper considers appropriate.

- (2) A cadastral unit which represents a separate tenement must be shown on the map in such a way as will distinguish it as a cadastral unit from other units.
- (3) The cadastral map may (but need not) show the boundaries of cadastral units on the vertical plane.
- (4) The cadastral map may contain such other information as the Keeper considers appropriate.
- (5) The cadastral map must be based upon the base map.
- (6) The base map is—
 - (a) the Ordnance Map,
 - (b) another system of mapping, being a system which accords with such requirements as the Scottish Ministers may, by order, prescribe, or
 - (c) a combination of the Ordnance map and such other system.
- (7) On the base map being updated, the Keeper must make any changes to the register which are necessary in consequence of the updating.
- (8) For the purposes of subsection (1)(a), the Keeper may determine what data is supplementary data.
- (9) This section and sections 12 and 13 are without prejudice to section 16.

12 Cadastral units

- (1) A cadastral unit is a unit which represents a single registered plot of land.
- (2) Subject to subsection (3), the same area of land cannot be represented by more than one cadastral unit.
- (3) The Keeper need not represent a plot of land such as is mentioned in section 3(7) as a separate cadastral unit but may instead include it in the cadastral unit representing the plot or plots of land of which it is a pertinent.
- (4) The Keeper must assign a cadastral unit number to each cadastral unit.
- (5) The cadastral unit number is to be the title number of the plot of land which that unit represents.

13 The cadastral map: further provision

- (1) Where a plot of land—
 - (a) lies wholly outwith the base map, or
 - (b) extends partly outwith the base map,the Keeper may adopt such means of representing the boundaries on the cadastral map as the Keeper considers appropriate.
- (2) The Keeper may—
 - (a) combine cadastral units,
 - (b) remove a cadastral unit from the map, or
 - (c) divide a cadastral unit.

- (3) On dividing a cadastral unit under subsection (2)(c), the Keeper may combine any of the resultant parts with a different cadastral unit.
- (4) The Keeper must make such changes to the register as are necessary in consequence of anything done under subsections (2) and (3).

The archive record

14 The archive record

- (1) The archive record is to consist of—
 - (a) copies of all documents submitted to the Keeper,
 - (b) copies of all documents which the Keeper is required to include under land register rules, and
 - (c) copies of such other documents as the Keeper considers appropriate.
- (2) The Keeper must also include in the archive record such information as is required for the purposes of section 104.
- (3) But the Keeper need not include in the archive record a copy of—
 - (a) any enactment, or
 - (b) any document comprised in any other register under the management and control of the Keeper or of the Keeper of the Records of Scotland.
- (4) A fact which can be discovered from the archive record is not, by reason only of that circumstance, a fact which a person ought to know.

The application record

15 The application record

The application record is to consist of all—

- (a) applications for registration as are for the time being pending, and
- (b) advance notices as are for the time being extant.

Tenements etc.

16 Tenements and other flatted buildings

- (1) Where the Keeper considers it appropriate in relation to a flatted building to do so, the Keeper may, instead of representing each registered flat in the building as a separate cadastral unit, represent the building and all the registered flats in it as a single cadastral unit.
- (2) Where a flatted building and the registered flats in it are represented as a single cadastral unit—
 - (a) the cadastral map must show, for that cadastral unit, the title numbers of each registered flat, and

Status: This is the original version (as it was originally enacted).

- (b) the respective pro indiviso shares in the pertinents of the registered flats need not be entered in the proprietorship section of the title sheet of any of those flats.
- (3) But subsections (1) and (2) do not apply in relation to land pertaining to the flatted building which—
 - (a) extends more than 25 metres from the building in so far as it so extends, or
 - (b) is further than 25 metres from the building (measuring along a horizontal plane from whatever point of that building is nearest to the land).
- (4) In this Act a “flatted building” means—
 - (a) a tenement, or
 - (b) any other subdivided building.
- (5) A “subdivided building”—
 - (a) means a building or part of a building, not being a tenement, which comprises two or more related flats, at least two of which—
 - (i) are, or are designed to be, in separate ownership, and
 - (ii) are divided from each other vertically, and
 - (b) includes the solum and any other land pertaining to the building or part of the building.
- (6) In determining whether flats comprised in a subdivided building are related, the Keeper must have regard, among other things, to—
 - (a) the title to the building, and
 - (b) any real burdens.
- (7) In subsection (6), “title to the building” means—
 - (a) any conveyance, or reservation, of property which affects the subdivided building, any flat in the building or any pertinent of the building or of any such flat, and
 - (b) the relevant title sheet of the building, any flat in it or any pertinent of the building or of any such flat.
- (8) Expressions used in this section and in sections 26 and 29 of the Tenements (Scotland) Act 2004 ([asp 11](#)) have the meanings given in that Act.

Shared plots

17 Shared plots

- (1) This section applies where a plot of land—
 - (a) is owned in common by the proprietors of two or more other plots of land by virtue of their ownership of those other plots,
 - (b) is not owned in common by anyone else.
- (2) The Keeper may, if the Keeper considers it appropriate, designate the title sheet of the plot of land to be a “shared plot title sheet”.
- (3) In this section and in sections 18 and 19—
 - (a) references to a “shared plot” are to a plot of land the title sheet of which is designated under subsection (2),

- (b) references to the “sharing plots” are to the other plots of land the proprietors of which own the shared plot in common.
- (4) Unless the context otherwise requires, any reference in a document to a sharing plot is to be taken to include a reference to the share in the shared plot which pertains to the sharing plot.
- (5) Registration has the same effect in relation to a share in a shared plot which pertains to a sharing plot as it has in relation to the sharing plot (except in so far as may otherwise be provided in the deed registered).

18 Shared plot and sharing plot title sheets

- (1) The Keeper must enter—
 - (a) in the property section of the title sheet of each of the sharing plots, the title number of the shared plot title sheet,
 - (b) in the proprietorship section of the shared plot title sheet, the title numbers of the title sheets of each of the sharing plots.
- (2) The Keeper must also enter—
 - (a) in the property section of the title sheet of each sharing plot, the quantum of the share which the proprietor of that sharing plot has in the shared plot,
 - (b) in the proprietorship section of the shared plot title sheet, in relation to the information required by section 7(1)(b), the respective share each sharing plot has in the shared plot,
 - (c) in the securities section of that title sheet, a statement to the effect that the shared plot may be subject to a heritable security registered against a sharing plot,
 - (d) in the burdens section of that title sheet, a statement to the effect that the shared plot may be subject to some other encumbrance so registered.
- (3) The Keeper must not enter in or, if entered, must omit from—
 - (a) the proprietorship section of the shared plot title sheet, the information that would otherwise be required under section 7(1)(a),
 - (b) the securities section of that title sheet, the information that would otherwise be required under section 8(1) unless the security is over the shared plot only,
 - (c) that title sheet, any matter that would otherwise be required under section 10(2)(b).
- (4) The Keeper may, if the condition mentioned in subsection (5) is satisfied and the Keeper considers it appropriate, omit from the burdens section of the shared plot title sheet any entry which would otherwise be required under section 9(1).
- (5) The condition is that the encumbrance to which the entry would relate is (or falls to be) registered against each of the sharing plots.

19 Conversion of shared plot title sheet to ordinary title sheet

- (1) The Keeper may at any time revoke a designation under section 17(2) of a title sheet as a shared plot title sheet.

- (2) Where the Keeper revokes a designation, the Keeper must make such changes to the title sheets of the plots of land that were, in relation to the shared plot title sheet, the shared plot and the sharing plots as are consequential upon the revocation.

20 Shared plot title sheets in relation to registered leases

Schedule 1 makes provision for registered leases tenanted in common similar to that made by sections 17 to 19 for plots of land owned in common.

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).

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.

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.

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—
 - (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.

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.
- (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.

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.

Registration without deed

27 Application for voluntary registration

- (1) A person mentioned in subsection (2) may apply for registration of an unregistered plot of land or any part of that plot.

- (2) The person is the owner (or, in the case of ownership in common, any of the owners) of the plot.
- (3) The Keeper must accept an application under subsection (1) to the extent—
 - (a) the applicant satisfies the Keeper that, as at the date of the application, the following are met—
 - (i) the general application conditions, and
 - (ii) the conditions mentioned in section 28, and
 - (b) the Keeper is satisfied that it is expedient that the plot (or the part of the plot) should be registered.
- (4) To the extent the applicant does not so satisfy the Keeper, the Keeper must reject the application.
- (5) Where the application is in respect of a part of a plot of land, references to the plot in section 28 and section 30 in so far as it applies by virtue of this section are to be read as references to the part.
- (6) The Scottish Ministers may by order repeal subsection (3)(b).
- (7) Before making such an order, the Scottish Ministers must consult the Keeper.
- (8) An order under subsection (6) may make different provision for different areas.

28 Conditions of registration: voluntary registration

- (1) The conditions are that—
 - (a) there is submitted with the application a plan or description of the plot sufficient to enable the Keeper to delineate the plot's boundaries in the cadastral map,
 - (b) 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 in the cadastral map.
- (2) Subsection (1)(a) and (b) does 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 depicted.
- (3) Despite subsection (2), subsection (1)(a) and (b) applies in so far as the plot includes a pertinent outwith the flatted building, being a pertinent only of the plot.
- (4) Subsection (1)(b) 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, or
 - (b) a servitude created other than by registration.

29 Keeper-induced registration

- (1) Other than on application and irrespective of whether the proprietor or any other person consents, the Keeper may register an unregistered plot of land or part of that plot.
- (2) Where the Keeper decides under this section to register a part of a plot, references to the plot in section 30 are to be read as references to the part.

*Completion of registration***30 Completion of registration of plot**

- (1) This section applies where—
 - (a) the Keeper accepts—
 - (i) an application under section 21 in respect of a disposition of, or a notice of title to, an unregistered plot of land,
 - (ii) an application under section 21 by virtue of it meeting the conditions in section 25, or
 - (iii) an application under section 27 in respect of a plot of land or a part of a plot, or
 - (b) the Keeper decides to register a plot of land or a part of a plot under section 29.
- (2) The Keeper must—
 - (a) make up a title sheet for the plot,
 - (b) make such other changes to the title sheet record as are necessary or expedient,
 - (c) create a cadastral unit for the plot,
 - (d) make such other changes to the cadastral map as are necessary or expedient, and
 - (e) copy into the archive record any document which—
 - (i) has been submitted to the Keeper or, where this section applies by virtue of subsection (1)(a)(ii) or (1)(b), is reasonably available to the Keeper, and
 - (ii) is relevant to the accuracy of the register.
- (3) Subsection (2)(e) is subject to section 14(3).
- (4) Changes under paragraph (b) or (d) of subsection (2) may include—
 - (a) cancelling a title sheet and cadastral unit, or
 - (b) making up a new title sheet and creating a new cadastral unit.
- (5) In a case where—
 - (a) this section applies by virtue of subsection (1)(a)(ii) or (1)(b), and
 - (b) any name or designation to be entered in the new title sheet to be made up cannot, or cannot with reasonable certainty, be determined by the Keeper,the Keeper may, in place of or as part of that entry, enter a statement that the name or designation is not known or as the case may be is not known with reasonable certainty.

31 Completion of registration of deed

- (1) This section applies where the Keeper accepts an application under section 21 other than an application to which section 30 applies.
- (2) The Keeper must as soon as reasonably practicable after accepting the application—
 - (a) make such changes to the title sheet, or each of the title sheets, to which the application relates as are necessary to give effect to the deed,
 - (b) make such other changes (if any) to the title sheet record as are necessary or expedient,
 - (c) make such changes (if any) to the cadastral map as are necessary or expedient, and
 - (d) copy into the archive record—
 - (i) the deed being given effect to by registration, and
 - (ii) any other document which has been submitted to the Keeper and is relevant to the accuracy of the register.
- (3) Subsection (2)(d)(ii) is subject to section 14(3).
- (4) Changes under paragraphs (a) to (c) of subsection (2) may include—
 - (a) cancelling a title sheet and cadastral unit, or
 - (b) making up a new title sheet and creating a new cadastral unit.

32 References to certain entries in Register of Inhibitions

- (1) Subsection (2) applies where—
 - (a) the Keeper accepts an application for registration under section 21, and
 - (b) the validity of the deed to which the application relates might be affected by an entry in the Register of Inhibitions.
- (2) The Keeper must, as soon as reasonably practicable after accepting the application, enter a reference to the entry in the title sheet.
- (3) Subsection (2) does not apply where the entry mentioned in subsection (1)(b) is—
 - (a) a notice of land attachment (within the meaning of section 83(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)), or
 - (b) a notice of a signeted summons in an action of reduction of a deed granted in breach of inhibition.

General provision about applications

33 Recording in application record

- (1) On receipt of an application for registration, the Keeper must—
 - (a) as soon as reasonably practicable, or
 - (b) if the application record is not open for the making of entries, as soon as reasonably practicable on the application record next opening for that purpose,enter in the application record details of the application (including the date the entry under this subsection is made).
- (2) No such entry need be made however if, on receipt of the application, it is immediately apparent to the Keeper that the application falls to be rejected.

- (3) On an application being—
- (a) withdrawn,
 - (b) accepted by the Keeper, or
 - (c) rejected by the Keeper,
- the Keeper must remove the entry relating to it from the application record.

34 Withdrawal and amendments etc. of application

- (1) While an application for registration is pending, the applicant—
- (a) may withdraw it, but
 - (b) except with the consent of the Keeper, may not substitute it or amend it.
- (2) Land register rules may specify circumstances in which consent under subsection (1) (b) must be given.

35 Period within which decision must be made

- (1) The Keeper's decision as to whether to accept or reject an application for registration must be made within such period as may be prescribed in land register rules.
- (2) Different periods may be so prescribed for different kinds of application.
- (3) The Keeper must deal with an application without unreasonable delay.

Date of application and registration etc.

36 Date of application

Any reference in this Act, however expressed, to the date of an application for registration is a reference to the date an entry in respect of the application is made in the application record under subsection (1) of section 33 (or, but for subsection (2) of that section, would fall to be made).

37 Date and time of registration

- (1) Where the Keeper accepts an application for registration, the date of registration is the date of the application.
- (2) The time of registration is deemed to be the moment at which, following the application being received by the Keeper, the application record next closes.
- (3) The Scottish Ministers may by order—
- (a) amend subsection (2) so as to make different provision as regards time of registration, and
 - (b) make such other amendments to this Act as are consequential upon that amendment.
- (4) Before making such an order, the Scottish Ministers must consult the Keeper.

38 Power to amend section 6 of the Land Registers (Scotland) Act 1868

If, under section 37(3)(a), the Scottish Ministers amend this Act, they may, in that order, correspondingly amend section 6 of the Land Registers (Scotland) Act 1868 (c.64) (which provides for registration in the General Register of Sasines) and make such other amendments to that Act as are consequential upon that amendment to that section.

Applications in relation to the same land

39 Order in which applications are to be dealt with

- (1) The Keeper must deal with two or more applications for registration in relation to the same land in order of receipt.
- (2) In the absence of evidence to the contrary, the order of receipt is to be taken to be the order in which the details of the applications were entered in the application record.
- (3) Subsection (1) is subject to subsections (4) to (8).
- (4) Subsection (5) applies where—
 - (a) two applications (“application A” and “application B”) are received on the same date in relation to the same land,
 - (b) to accept one of the applications would require the Keeper to reject the other,
 - (c) the deed to which application A purports to give effect is a deed in relation to which a protected period is running, and
 - (d) the deed to which application B purports to give effect either—
 - (i) is not such a deed, or
 - (ii) is such a deed but the protected period relating to the deed to which application A purports to give effect began before the protected period relating to the deed to which application B purports to give effect.
- (5) The Keeper must deal with application A before application B.
- (6) Subsection (8) applies where—
 - (a) two applications (“application C” and “application D”) are received on the same date in relation to the same land,
 - (b) the deed to which one of them (application C) purports to give effect is a deed in favour of a person (“X”), and
 - (c) the deed to which the other (application D) purports to give effect is a deed granted by X.
- (7) Subsection (8) also applies where—
 - (a) two applications (“application C” and “application D”) are received on the same date in relation to the same land,
 - (b) one application (application C) is an application under section 27, and
 - (c) the other (application D) is an application under section 21.
- (8) The Keeper must deal with application C before application D.

Notification

40 Notification of acceptance, rejection or withdrawal of application

- (1) On an application for registration being accepted or rejected, the Keeper must notify—
 - (a) the applicant,
 - (b) the granter of the deed sought to be registered (if any),
 - (c) if notification of receipt of the application was given under section 45(1), those to whom it was given, and
 - (d) any other person the Keeper considers appropriate.
- (2) On an application for registration being withdrawn, the Keeper must notify—
 - (a) the granter of the deed which had been sought to be registered (if any),
 - (b) if such notification as is mentioned in subsection (1)(c) was given, those to whom it was given, and
 - (c) any other person the Keeper considers appropriate.
- (3) The Keeper's duty to notify persons under subsections (1) and (2) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (4) Notification is to be by such means as the Keeper considers appropriate.
- (5) Land register rules may make further provision about notification under subsections (1) and (2).
- (6) A failure to comply with subsections (1) and (2) or with any rules so made does not affect the competence or validity of the acceptance, rejection or withdrawal in question.

41 Notification to proprietor

- (1) This section applies where—
 - (a) the Keeper accepts an application under section 21 by virtue of it meeting the conditions in section 25, or
 - (b) the Keeper registers a plot of land under section 29.
- (2) The Keeper is to notify—
 - (a) the proprietor of the plot, and
 - (b) any other person the Keeper considers appropriate.
- (3) The Keeper's duty to notify persons under subsection (2) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (4) Notification is to be by such means as the Keeper considers appropriate.
- (5) Land register rules may make further provision about notification under subsection (2).
- (6) A failure to comply with subsection (2) or with any rules so made does not affect the competence or validity—
 - (a) of the acceptance of the application in question, or
 - (b) of the registration of the plot of land in question.

42 Notification to Scottish Ministers of certain applications

- (1) This section applies where an application under section 21 is rejected on the ground that (or on grounds which include the ground that) the Keeper is not satisfied that the application does not relate to a transfer prohibited—
 - (a) by section 40(1) of the Land Reform (Scotland) Act 2003 (asp 2) (effect of registration of community interest in land), or
 - (b) under section 37(5)(e) of that Act (prohibition pending determination as to whether a community interest in land is to be registered).
- (2) However, this section does not apply where the only reason for the Keeper not being satisfied as mentioned in subsection (1) is that the application is not accompanied by a declaration required under section 43(2) of that Act (incorporation of certain declarations into deed giving effect to transfer).
- (3) The Keeper must—
 - (a) notify the Scottish Ministers, and
 - (b) provide them with a copy of the application.

Prescriptive claimants etc.

43 Prescriptive claimants

- (1) For the purposes of sections 23(1)(b), and 26(1)(a), a disposition is to be treated as being valid despite not being so if the conditions mentioned in subsections (2) to (4) are met.
- (2) It appears to the Keeper that the disposition is not valid (or, as regards part of the land to which the application relates, is not valid) for the reason only that the person who granted it had no title to do so.
- (3) The applicant satisfies the Keeper that the land to which the application relates (or as the case may be the part in question) has been possessed openly, peaceably and without judicial interruption—
 - (a) by the disponent or the applicant for a continuous period of 1 year immediately preceding the date of application, or
 - (b) first by the disponent and then by the applicant for periods which together constitute such a period.
- (4) The applicant satisfies the Keeper that the following person has been notified of the application—
 - (a) the proprietor,
 - (b) if there is no proprietor (or none can be identified), any person who appears to be able to take steps to complete title as proprietor, or
 - (c) if there is no proprietor and no such person (or, in either case, none can be identified), the Crown.
- (5) For the purposes of section 26(1)(a), a deed is to be treated as being valid despite not being so if—
 - (a) the deed is granted by or is directed against a prescriptive claimant, and
 - (b) the application would be accepted were the prescriptive claimant's title valid.
- (6) In subsection (5), a “prescriptive claimant” is—

- (a) a person whose name is entered as proprietor in the proprietorship section of a title sheet, on an application being accepted by virtue of subsection (1),
 - (b) a person whose name is entered as holder of a right, in the appropriate section of a title sheet, the entry in relation to the right being one marked provisional under section 81(3)(a)(i),
 - (c) any person in right of a person mentioned in paragraph (a) or (b).
- (7) Land register rules may make further provision about notification under subsection (4).
- (8) The Scottish Ministers may, by order, amend subsection (3) so as to substitute for the period for the time being mentioned there a different period.
- (9) Before making such an order, the Scottish Ministers must consult the Keeper.

44 Provisional entries on title sheet

- (1) Where the Keeper accepts an application under section 21 by virtue of section 43(1) or (5), the Keeper is to mark any resulting entry in the title sheet as provisional.
- (2) The Keeper is to remove the provisional marking from an entry if and when the real right to which the entry relates becomes, under section 1 of the Prescription and Limitation (Scotland) Act 1973 (c.52) (validity of right), exempt from challenge.
- (3) While an entry remains provisional—
- (a) it does not affect any right held by any person in the land to which the entry relates, and
 - (b) rights set out in the register are not to be altered or deleted by virtue only of the entry.

45 Notification of prescriptive applications

- (1) Before accepting an application under section 21 which is received by virtue of section 43(1), the Keeper must notify—
- (a) the proprietor,
 - (b) if there is no proprietor (or none can be identified), any person who appears to the Keeper able to take steps to complete title as proprietor, or
 - (c) if there is no proprietor and no such person (or, in either case, none can be identified), the Crown.
- (2) The Keeper's duty to notify persons under subsection (1) only applies in so far as the Keeper considers it reasonably practicable to notify them.
- (3) Notification is to be by such means as the Keeper considers appropriate.
- (4) A person to whom notice is given under subsection (1) may object in writing to the application being accepted.
- (5) If the Keeper receives such an objection within 60 days of the notice, the Keeper must reject the application.
- (6) Land register rules may make further provision about notification under subsection (1).

- (7) The Scottish Ministers may, by order, amend subsection (5) so as to substitute for the number of days for the time being mentioned there a different number of days.
- (8) Before making such an order, the Scottish Ministers must consult the Keeper.

Further provision

46 Applications relating to compulsory acquisition

In the application of sections 21, 23, 30 and 48 to a case in which transfer of ownership is by virtue of compulsory acquisition, any reference in those sections to a “disposition” includes a reference to—

- (a) a conveyance the form of which is provided for by an enactment,
- (b) a notarial instrument, or
- (c) a general vesting declaration.

47 Effect of death or dissolution

- (1) The Keeper must reject an application if the applicant dies, or as the case may be is dissolved, before the date of the application.
- (2) An application is not incompetent by reason only that the person who granted the deed sought to be registered dies, or as the case may be is dissolved, after the delivery of the deed.

Closure of Register of Sasines etc.

48 Closure of Register of Sasines etc.

- (1) The recording of any of the following in the Register of Sasines has no effect—
 - (a) a disposition,
 - (b) a lease,
 - (c) an assignation of a lease,
 - (d) any other deed in so far as it relates to a registered plot of land or to a registered lease.
- (2) The recording, on or after such day as is prescribed, of a standard security in the Register of Sasines has no effect.
- (3) The recording, on or after such day as is prescribed, of a deed other than one mentioned in subsection (1) or (2) in the Register of Sasines has no effect.
- (4) On and after the day prescribed under subsection (3), any deed the recording of which would, by virtue of that subsection, have no effect is (subject to the provisions of this Act) registrable in the Land Register.
- (5) Where by virtue of this section the recording of a deed, disposition, lease, assignation or standard security in the Register of Sasines would have no effect, the Keeper is to reject any application to record it.

Status: This is the original version (as it was originally enacted).

- (6) Subsection (1)(a) is without prejudice to sections 4 (creation of real burden) and 75 (creation of positive servitude by writing: deed to be registered) of the Title Conditions (Scotland) Act 2003 (asp 9).
- (7) Any day prescribed under subsection (2) or (3) is to be a day no earlier than the day subsection (3)(b) of section 27 is repealed by virtue of subsection (6) of that section.
- (8) In subsections (2) and (3), “prescribed” means prescribed by the Scottish Ministers by order.
- (9) An order under subsection (2) or (3) may make different provision for different areas.
- (10) Before making an order under subsection (2) or (3), the Scottish Ministers must consult—
 - (a) the Keeper, and
 - (b) such other persons appearing to have an interest in the closure of the Register of Sasines to the recording of deeds as the Scottish Ministers consider appropriate.

PART 3

COMPETENCE AND EFFECT OF REGISTRATION

Registrable deeds

49 Registrable deeds

- (1) A deed is registrable only if and in so far as its registration is authorised (whether expressly or not) by—
 - (a) this Act,
 - (b) an enactment mentioned in subsection (3), or
 - (c) any other enactment.
- (2) Registration of such a deed has the effect provided for (whether expressly or not) by—
 - (a) this Act,
 - (b) an enactment mentioned in subsection (3),
 - (c) any other enactment, or
 - (d) any rule of law.
- (3) The enactments referred to in subsections (1) and (2) are—
 - (a) the Registration of Leases (Scotland) Act 1857 (c.26),
 - (b) the Conveyancing (Scotland) Act 1924 (c.27),
 - (c) the Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35),
 - (d) the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73).
- (4) Registration of an invalid deed confers real effect only to the extent that an enactment so provides.

Specific provisions on competence and effect of registration

50 Transfer by disposition

- (1) A disposition of land may be registered.
- (2) Registration of a valid disposition transfers ownership.
- (3) An unregistered disposition does not transfer ownership.
- (4) Subsections (1) to (3) are subject to—
 - (a) sections 43 and 86, and
 - (b) any other enactment or rule of law by or under which ownership of land may pass.
- (5) In subsection (1), “land” includes land held on udal title.

51 Proper liferents

- (1) A deed creating a proper liferent over land may be—
 - (a) registered, or
 - (b) recorded in the Register of Sasines.
- (2) The proper liferent is not created before the deed is so registered or recorded.
- (3) Subsections (1) and (2) are subject to any other enactment or any rule of law by or under which a proper liferent over land may be created.
- (4) References in this section to the recording of a deed include references to the recording of a notice of title deducing title through a deed.

52 Registration of, and of transactions and events affecting, leases

- (1) The Registration of Leases (Scotland) Act 1857 (c.26) is amended as follows.
- (2) After section 20 insert—

“20A Certain transactions or events registrable in the Land Register of Scotland

- (1) A deed mentioned in subsection (2) which affects a lease registered in the Land Register of Scotland is registrable in that register.
- (2) The deed is one—
 - (a) terminating the lease,
 - (b) extending the duration of the lease,
 - (c) otherwise altering the terms of the lease.

20B Effect of registration in the Land Register of Scotland

- (1) Registration in the Land Register of Scotland has the effect of—
 - (a) vesting in the person registered as entitled to the lease a real right in and to the lease and in and to any right or pertinent, express or

Status: This is the original version (as it was originally enacted).

- implied, forming part of the lease, subject only to the effect of any matter entered in that register so far as adverse to the entitlement,
- (b) making any registered right or obligation relating to the registered lease a real right or obligation, and
 - (c) affecting any registered real right or obligation relating to the registered lease,
- in so far as the right or obligation is capable, under any enactment or rule of law, of being vested as a real right, of being made real or (as the case may be) of being affected as a real right.
- (2) Registration in the Land Register of Scotland is the only means—
 - (a) whereby rights or obligations relating to a registered lease become real rights or obligations, or
 - (b) of affecting such real rights or obligations.
 - (3) Subject to Part 9 of the Land Registration etc. (Scotland) Act 2012 (asp 5) (rights to persons acquiring etc. in good faith), registration of an invalid deed confers no real effect.”.
- (3) Schedule 2, which contains minor and consequential modifications of the 1857 Act in consequence on this Act, has effect.

53 Completion of title

- (1) The Conveyancing (Scotland) Act 1924 (c.27) is amended as follows.
- (2) In section 4 (completion of title)—
 - (a) for “by a title which has not been completed by being recorded in the appropriate Register of Sasines, may” substitute “may, if the last recorded title to the right is recorded in the General Register of Sasines,”,
 - (b) the title of the section becomes “Completion of title: General Register of Sasines”.
- (3) After section 4 insert—

“4A Completion of title: Land Register

Any person having right either to land or to a heritable security may complete title by registration in the Land Register of a notice of title in or as nearly as may be in the terms of the form in schedule BA to this Act.

4B Further provision as regards completion of title

- (1) If it is competent to register a disposition or assignation in the Land Register, it is not competent for the disponent or assignee to complete title in the manner provided for in section 4 of this Act.
 - (2) In this section and in section 4A of this Act, “Land Register” means the Land Register of Scotland.”.
- (4) After section 49 insert—

“49A Power of the Scottish Ministers to prescribe forms

- (1) The Scottish Ministers may, by order, modify any schedule to this Act.
 - (2) Such an order may, in particular, substitute for any form, notice, clause, warrant or other deed for the time being set out in such a schedule another such form, notice, clause, warrant or other deed.
 - (3) An order under this section is subject to the affirmative procedure.”.
- (5) After schedule B insert—

“SCHEDULE BA

FORM OF NOTICE OF TITLE: LAND REGISTER

Be it known that *A.B. (designation)* has right as proprietor to all and whole (*description*) conform to the last completed title and subsequent writ (*or writs*), which title and writ (*or writs*) have been examined by me, *Y.Z. (designation)*, Notary Public (*or Law Agent*).

[*Testing clause.*]

Y.Z.

NOTES TO SCHEDULE BA

Note 1: Where the notice is in respect of a subordinate real right, other than a registered lease having its own title sheet, for “proprietor to” substitute “holder of liferent (*or other right, as the case may be*) over”.

Note 2: Where the notice is in respect of a registered lease having its own title sheet, for “proprietor to” substitute “tenant of”.

Note 3: If any writ by which A.B. acquired right contains a new title condition, whether burdening or benefiting the property, the condition is to be inserted in full after the description of the property.

Note 4: In the case of a traditional document, subscription of it by the notary public (*or law agent*) on behalf of the granter will suffice for the document to be formally valid, but witnessing of it may be necessary or desirable for other purposes: see the Requirements of Writing (Scotland) Act 1995 (c.7) (which also makes provision as regards the authentication of an electronic document).

54 Registration of decree of reduction

After section 46 of the Conveyancing (Scotland) Act 1924 (c.27) insert—

“46A Further provision as regards decree of reduction

- (1) Where a deed mentioned in subsection (2) is reduced, the decree of reduction—
 - (a) may be registered in the Land Register of Scotland, and
 - (b) does not have real effect until so registered.
- (2) The deed is one which—
 - (a) is voidable, and
 - (b) relates to a plot of land or lease registered in the Land Register of Scotland.
- (3) Subsection (1) applies to an arbitral award which—
 - (a) orders the reduction of a deed mentioned in subsection (2), and
 - (b) may be enforced in accordance with section 12 of the Arbitration (Scotland) Act 2010 (asp 1),
 as it applies to a decree of reduction.”.

55 Registration of order for rectification of document etc.

- (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73) is amended as follows.
- (2) In section 8 (rectification of defectively expressed documents)—
 - (a) in subsection (3), after “made to it” insert “and in either case after calling all parties who appear to it to have an interest”,
 - (b) after that subsection insert—
 - “(3A) If a document is registered in the Land Register of Scotland in favour of a person acting in good faith then, unless the person consents to rectification of the document, it is not competent to order its rectification under subsection (3) above.”,
 - (c) in subsection (4), for “section 9(4)” substitute “sections 8A and 9(4)”.
- (3) After section 8 insert—

“8A Registration of order for rectification

An order for rectification made under section 8 of this Act in respect of a document which has been registered in the Land Register of Scotland—

- (a) may be registered in that register, and
 - (b) does not have real effect until so registered.”.
- (4) In section 9 (provisions supplementary to section 8: protection of other interest)—
 - (a) in subsection (2)—
 - (i) for “subsection (3)” substitute “subsections (2A) and (3)”,
 - (ii) repeal “or on the title sheet of an interest in land registered in the Land Register of Scotland being an interest to which the document relates”,
 - (b) after that subsection insert—
 - “(2A) This section does not apply where the document to be rectified is a deed registered in the Land Register of Scotland.”,

- (c) in subsection (3)—
 - (i) in paragraph (a), repeal “or (as the case may be) the title sheet”,
 - (ii) in paragraph (b), repeal “or on the title sheet”,
- (d) subsection (6) is repealed.

PART 4

ADVANCE NOTICES

56 Advance notices

- (1) An advance notice is a notice—
 - (a) stating that a person intends to grant a deed to another person,
 - (b) stating the name and designation of both persons,
 - (c) describing the nature of the intended deed (as for example whether it is to be a disposition),
 - (d) where the intended deed relates to a registered lease or a registered plot of land—
 - (i) stating the title number of the title sheet to which the deed is to relate,
 - (ii) where the deed is to relate to a registered lease which does not have a lease title sheet, stating the particulars of the lease, and
 - (iii) where the deed is to relate to part only of the subjects of the lease, or to part only of the plot, describing the part so as to enable the Keeper to delineate on the cadastral map the boundaries of the part, and
 - (e) where the intended deed relates to an unregistered lease or unregistered plot of land, describing the lease or, as the case may be, plot.
- (2) Subsection (1)(d)(iii) 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 on the cadastral map, or
 - (ii) the Keeper has indicated that the flatted building is, by virtue of that section, to be so depicted.
- (3) Despite subsection (2), subsection (1)(d)(iii) applies in so far as the part includes a pertinent outwith the flatted building, being a pertinent only of the part.
- (4) The Scottish Ministers may by regulations make provision about the description to be contained in an advance notice by virtue of subsection (1)(e).

57 Application for advance notice

- (1) A person falling within subsection (2) may apply to the Keeper for an advance notice in relation to a registrable deed which the person intends to grant.
- (2) A person falls within this subsection if—
 - (a) the person may validly grant the intended deed, or
 - (b) the person has the consent of such a person to apply.

- (3) The Keeper may accept an application under subsection (1) only if—
 - (a) such fee as is payable in respect of the application is paid, or
 - (b) arrangements satisfactory to the Keeper are made for payment of that fee.
- (4) If the Keeper accepts an application under subsection (1), the Keeper must—
 - (a) where the intended deed relates to a registered plot of land—
 - (i) as soon as reasonably practicable or, if the application record is not open for the making of entries, as soon as reasonably practicable on the application record next opening for that purpose, enter an advance notice in the application record, and
 - (ii) where (and to the extent that) section 56(1)(d)(iii) applies in relation to the notice, delineate the boundaries of the part on the cadastral map,
 - (b) in any other case, record an advance notice in the Register of Sasines.

58 Period of effect of advance notice

- (1) An advance notice has effect for the period of 35 days beginning with the day after the notice is entered in the application record or, as the case may be, recorded in the Register of Sasines.
- (2) Subsection (1) is subject to section 63.
- (3) The period during which an advance notice has effect is referred to in this Act as the “protected period”.
- (4) Subsection (5) applies where two advance notices in relation to the same plot of land or lease are entered into the application record or recorded in the Register of Sasines on the same date.
- (5) The protected period in relation to the advance notice which is first to be entered in the application record, or as the case may be recorded in the Register of Sasines, is deemed to begin before the protected period in relation to the other advance notice.
- (6) The Scottish Ministers may, by order amend subsection (1) so as to substitute for the period for the time being mentioned there a different period.
- (7) Before making such an order, the Scottish Ministers must consult the Keeper.

59 Effect of advance notice: registered deeds

- (1) Subsections (2) and (3) apply in relation to any two deeds (“deed Y” and “deed Z”) relating to the same plot of land where—
 - (a) during a protected period relating to deed Y—
 - (i) an application is made for registration of deed Z, and
 - (ii) on or after the date of that application, an application is made for registration of deed Y, and
 - (b) deed Z either—
 - (i) is not a deed in relation to which a protected period is running, or
 - (ii) is such a deed, but the protected period relating to deed Y began before the protected period relating to deed Z.

- (2) If deed Z is registered before the Keeper comes to make any decision as to whether or not to accept the application for registration of deed Y, that decision is to be taken as if deed Z had not been registered.
- (3) If the decision mentioned in subsection (2) is to accept the application—
 - (a) deed Y has on registration the same effect as if deed Z had not been registered, and
 - (b) the Keeper must amend the register so that it gives effect (if any) to deed Z as if it were registered after deed Y.

60 Effect of advance notice: recorded deeds

- (1) Subsections (2) and (3) apply in relation to any two deeds (“deed Y” and “deed Z”) relating to the same plot of land where, during a protected period relating to deed Y—
 - (a) deed Z is recorded in the Register of Sasines, and
 - (b) on or after the date of recording, an application is made for registration of deed Y.
- (2) The decision as to whether or not to accept the application for registration of deed Y is to be taken as if deed Z had not been recorded.
- (3) If the decision mentioned in subsection (2) is to accept the application—
 - (a) deed Y has on registration the same effect as if deed Z had not been recorded, and
 - (b) in making up the title sheet for the plot, the Keeper must give effect (if any) to deed Z as if it were not recorded but registered after deed Y.

61 Effect of advance notice: further provision

- (1) A deed to which an advance notice relates, if registered on a date which falls within the protected period, is not subject to—
 - (a) an inhibition registered in the Register of Inhibitions against the granter and taking effect before that date but during that period, or
 - (b) anything registered or recorded in that register and taking effect, before that date but during that period, as if an inhibition registered against the granter.
- (2) Sections 59 and 60 apply irrespective of whether a deed is voluntary or involuntary.
- (3) Sections 59 and 60 do not apply in relation to—
 - (a) a notice registered, or intended or sought to be registered, under—
 - (i) section 10(2A) of the Title Conditions (Scotland) Act 2003 (asp 9), or
 - (ii) section 12(3) of the Tenements (Scotland) Act 2004 (asp 11), and
 - (b) such other deeds as the Scottish Ministers may by order specify.
- (4) Before making an order under subsection (3)(b), the Scottish Ministers must consult the Keeper.

62 Removal of advance notice etc.

- (1) After the protected period in relation to an advance notice has elapsed, the Keeper must, if the notice was entered in the application record—

Status: This is the original version (as it was originally enacted).

- (a) remove it from there, and
 - (b) if the notice has not already been entered in the archive record, enter it in that record.
- (2) After such period in relation to an advance notice as may be prescribed in land register rules the Keeper must, if the intended deed has not been registered, remove from the cadastral map any delineation effected under section 57(4)(a)(ii).

63 Discharge of advance notice

- (1) A person who applied for an advance notice may apply to the Keeper for the discharge of that notice.
- (2) An application under subsection (1) may be made only during the protected period.
- (3) The Keeper may accept an application under subsection (1) only if—
- (a) the person to whom the intended deed would be granted consents, and
 - (b) either—
 - (i) such fee as is payable in respect of the application is paid, or
 - (ii) arrangements satisfactory to the Keeper are made for payment of that fee.
- (4) If the Keeper accepts the application, the Keeper must—
- (a) if the advance notice was entered in the application record—
 - (i) remove it from there, and
 - (ii) if the notice has not already been entered in the archive record, enter it in that record,
 - (b) if the advance notice was recorded in the Register of Sasines, record a notice of discharge in relation to the advance notice.
- (5) On the advance notice being removed from the application record or, as the case may be, a notice of discharge being recorded, the advance notice ceases to have effect.

64 Application of Part to specific deeds

- (1) The Scottish Ministers may by order modify the application of this Part in relation to any deed of a kind specified in the order.
- (2) Before making such an order, the Scottish Ministers must consult the Keeper.

PART 5

INACCURACIES IN THE REGISTER

65 Meaning of “inaccuracy”

- (1) A title sheet is inaccurate in so far as it—
- (a) misstates what the position is in law or in fact,
 - (b) omits anything required, by or under an enactment, to be included in it, or
 - (c) includes anything the inclusion of which is not expressly or impliedly permitted by or under an enactment.

- (2) The cadastral map is inaccurate in so far as it—
 - (a) wrongly depicts or shows what the position is in law or in fact,
 - (b) omits anything required, by or under an enactment, to be depicted or shown on it, or
 - (c) depicts or shows anything the depiction or showing of which is not expressly or impliedly permitted by or under an enactment.
- (3) The cadastral map is not inaccurate in so far as it does not depict something correctly by reason only of an inexactness in the base map which is within the published accuracy tolerances relevant to the scale of map involved.
- (4) Neither a title sheet nor the cadastral map is inaccurate by reason only that a deed which gave rise to the acquisition, variation or discharge of a real right—
 - (a) was voidable and has been reduced, or
 - (b) has been rectified under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73) (rectification of defectively expressed documents).
- (5) This section is subject to section 66(3).

66 Shifting boundaries

- (1) This section applies where the proprietors of adjacent plots of land affected by alluvion agree that their common boundary (or part of it) is not to be so affected.
- (2) Such an agreement may, on the joint application of both proprietors, be registered in the title sheets of both plots of land.
- (3) Where such an agreement is registered, the cadastral map and the title sheets of the plots do not become inaccurate as a result of alluvion affecting the boundary (or part of it) occurring after registration.

PART 6

CAVEATS

67 Warrant to place a caveat

- (1) This section applies to civil proceedings—
 - (a) for the reduction of a registered deed on the ground that it is voidable,
 - (b) which could result in a judicial determination that the register is inaccurate, or
 - (c) for an order which, if granted, would be registrable under section 8A of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73) (registration of order for rectification).
- (2) A party to the proceedings may, at any time while the proceedings are in dependence, apply to the court for warrant to place a caveat on the title sheet of a plot of land to which the proceedings relate.
- (3) The court may, if satisfied as to the matters mentioned in subsection (4), make an order granting the warrant applied for.

- (4) The matters are that—
- (a) the applicant has a prima facie case on the merits of the proceedings,
 - (b) were warrant for placing the caveat not granted, there is a real and substantial risk that enforcement of any decree or order in the proceedings granted in favour of the applicant would be defeated or prejudiced by reason of the other party being likely to deal with the plot of land, and
 - (c) in all the circumstances, including the effect which granting the warrant may have on any person having an interest, it is reasonable to make the order granting it.
- (5) The onus is on the applicant to satisfy the court that the order granting the warrant should be made.

68 Duration of caveat

- (1) A caveat, warrant for which is granted under section 67(3), expires 12 months after it is placed on the title sheet unless renewed, recalled or discharged before the expiry of that period.
- (2) Subsection (1) applies to a caveat renewed under section 69(2) as it applies to a caveat, warrant for which is granted under section 67(3).
- (3) The Scottish Ministers may, by order, amend subsection (1) so as to substitute for the period for the time being mentioned in the subsection a different period.
- (4) Before making such an order, the Scottish Ministers must consult the Keeper.

69 Renewal of caveat

- (1) The applicant may apply to the court which granted the warrant to place the caveat for warrant to renew it.
- (2) The court may, if satisfied as to the matters mentioned in subsection (3), make an order granting warrant to renew the caveat.
- (3) The matters are that—
 - (a) the applicant has a prima facie case on the merits of the proceedings,
 - (b) were warrant to renew the caveat not granted, there is a real and substantial risk that enforcement of any decree or order in the proceedings granted in favour of the applicant would be defeated or prejudiced by reason of the other party being likely to deal with the plot of land, and
 - (c) in all the circumstances, including the effect which renewing the caveat may have on any person having an interest, it is reasonable to make the order renewing it.
- (4) The onus is on the applicant to satisfy the court that the order renewing the caveat should be made.
- (5) The court may renew a caveat on more than one occasion.
- (6) In this section and in sections 70 and 71, “the applicant” means the person who has placed a caveat on the title sheet.

70 Restriction of caveat

- (1) Any person with an interest, other than the applicant, may at any time apply to the court which granted the warrant to place the caveat for an order restricting the caveat.
- (2) The court may, if satisfied—
 - (a) as to the matters mentioned in subsection (3), and
 - (b) that it is reasonable in all the circumstances to do so,make an order restricting the caveat.
- (3) The matters are that—
 - (a) the applicant has a prima facie case on the merits of the proceedings,
 - (b) there is a real and substantial risk that enforcement of any decree or order in the proceedings granted in favour of the applicant would be defeated or prejudiced by reason of the other party being likely to deal with the plot of land, and
 - (c) in all the circumstances, including the effect which granting the warrant to place the caveat may have on any person having an interest, it is reasonable for the caveat to continue to have effect.
- (4) The onus is on the applicant to satisfy the court that the order restricting the caveat should not be made.

71 Recall of caveat

- (1) Any person with an interest, other than the applicant, may at any time apply to the court which granted the warrant to place the caveat for the caveat to be recalled.
- (2) The court must, if no longer satisfied as to the matters mentioned in subsection (3), make an order recalling the caveat.
- (3) The matters are that—
 - (a) the applicant has a prima facie case on the merits of the proceedings,
 - (b) there is a real and substantial risk that enforcement of any decree or order in the proceedings granted in favour of the applicant would be defeated or prejudiced by reason of the other party being likely to deal with the plot of land, and
 - (c) in all the circumstances, including the effect which granting the warrant to place the caveat may have on any person having an interest, it is reasonable for the caveat to continue to have effect.
- (4) The onus is on the applicant to satisfy the court that the order recalling the caveat should not be made.

72 Discharge of caveat

A person—

- (a) in whose favour warrant to place a caveat has been granted, or
 - (b) who has renewed a caveat under section 69(2),
- may at any time discharge the caveat.

PART 7**KEEPER'S WARRANTY***Keeper's warranty***73 Keeper's warranty**

- (1) The Keeper, in accepting an application for registration, warrants to the applicant that, as at the time of registration, the title sheet to which the application relates—
- (a) is accurate—
 - (i) in so far as it shows an acquisition, variation or discharge in favour of the applicant, or
 - (ii) in the case of an application under section 27, in so far as it shows the applicant to be the proprietor or proprietor in common, and
 - (b) is not inaccurate in so far as there is omitted from it any encumbrance the inclusion of which is permitted or required by or under an enactment.
- (2) But the Keeper does not warrant that—
- (a) the plot of land to which the application relates is unencumbered by any public right of way,
 - (b) the land is unencumbered by a path delineated in an order under section 22 of the Land Reform (Scotland) Act 2003 (asp 2) (compulsory powers to delineate paths in land in respect of which access rights are exercisable),
 - (c) the land is unencumbered by a servitude created other than by registration in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9) (creation of positive servitude by writing: deed to be registered),
 - (d) a right appearing on the title sheet as a pertinent is of a kind capable of being a valid pertinent,
 - (e) a pertinent appearing on the title sheet and of a kind extinguishable or variable without registration against the title of the benefited property has not been extinguished, or varied, without registration,
 - (f) the applicant has by registration acquired a right to mines or minerals,
 - (g) a registered lease has not been varied or terminated without the variation or termination having been registered,
 - (h) the title sheet to which the application relates is accurate—
 - (i) in so far as it shows an acquisition, variation or discharge more extensive than the deed registered bore to effect, or
 - (ii) in the case of an application under section 27, in so far as it shows the applicant to be the proprietor or proprietor in common of a plot of land more extensive than the plot registration of which the application bore to effect, or
 - (i) alluvion has not had an effect on a boundary.
- (3) The benefit of warranty extends to persons to whom the benefit of warrandice by the granter of a deed would extend.
- (4) In relation to an application for registration of a deed relating to a title condition, references in subsections (1) and (2) and in section 78 to the applicant are to be read as references to the person benefiting from the deed given effect to.

(5) The Keeper does not warrant as provided for in subsections (1) and (2) where the application for registration is accepted by virtue of section 43.

(6) This section is subject to sections 75 and 76.

74 Keeper’s warranty on registration under sections 25 and 29

(1) The Keeper, on registering a plot of land by virtue of section 25 or under section 29, warrants to the owner that, as at the time of registration, the title sheet of the plot—

- (a) is accurate in so far as it shows the owner to be the proprietor or proprietor in common, and
- (b) is not inaccurate in so far as there is omitted from it any encumbrance the inclusion of which is permitted or required by or under an enactment.

(2) Subsections (2), (3) and (5) of section 73 apply to warranty under this section as they apply to warranty under that section.

(3) Subsection (2) of section 73 is subject to the following modifications—

- (a) for paragraph (h) substitute—
 - “(h) in the case of registration by virtue of section 25, the title sheet is accurate in so far as it shows the owner to be the proprietor or proprietor in common of a plot of land more extensive than the area of land which forms the subjects of the lease, to which the deed relates or, as the case may be, in respect of which the subordinate real right is constituted,
 - (ha) in the case of registration under section 29, the title sheet is accurate in so far as it shows the owner to be the proprietor or proprietor in common of a plot of land more extensive than the plot the Keeper sought to register, or”
- (b) references in that subsection to—
 - (i) the application are to be read as references to the registration by virtue of section 25 or under section 29,
 - (ii) to the applicant are to be construed as references to the owner.

(4) This section is subject to sections 75 and 76.

75 Extension, limitation or exclusion of warranty

(1) The Keeper may—

- (a) if satisfied (having regard to sufficiency of evidence as to title) that it is appropriate to do so, grant more extensive warranty than is provided for in section 73 or 74, or
- (b) if not satisfied as to the validity of the acquisition, variation or discharge mentioned in section 73(1)(a)(i) or that the applicant or owner is the proprietor as mentioned in section 73(1)(a)(ii) or 74(1)(a)—
 - (i) grant less extensive warranty than is so provided for, or
 - (ii) exclude warranty.

(2) For the purposes of subsection (1), the Keeper must have regard to any relevant caveat placed on the title sheet by virtue of section 67.

- (3) Where warranty is granted or excluded under subsection (1), the Keeper must give effect to the grant or exclusion by entering a statement describing it in the title sheet.
- (4) If an entry made in the title sheet on an application being accepted by virtue of section 43 ceases to be provisional, the Keeper may—
 - (a) grant such warranty as the Keeper (having regard to sufficiency of evidence as to title) considers appropriate, and
 - (b) give effect to the grant by entering a statement describing it in the title sheet.

76 Variation of warranty

- (1) This section applies where warranty is—
 - (a) as provided for in section 73 or 74,
 - (b) granted under section 75(1)(a), (b)(i) or (4)(a), or
 - (c) excluded under section 75(1)(b)(ii).
- (2) The Keeper may, if the Keeper comes to be satisfied (having regard to sufficiency of evidence as to title) that it is appropriate to do so, grant—
 - (a) warranty as provided for in section 73,
 - (b) less extensive warranty than as so provided, or
 - (c) more extensive warranty than as so provided.
- (3) The Keeper may not, under subsection (2), grant warranty that is less extensive than the warranty which was originally provided for or granted as mentioned in subsection (1) (a) or (b).
- (4) For the purposes of subsection (2), the Keeper must have regard to any relevant caveat placed on the title sheet by virtue of section 67.
- (5) Where the Keeper grants warranty or more extensive warranty under subsection (2), the Keeper must—
 - (a) unless the warranty granted is warranty only as provided for in section 73, give effect to the grant by entering a statement describing it on the title sheet, and
 - (b) remove any statement previously entered under section 75(3) or (4)(b).

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).

PART 8

RECTIFICATION OF THE REGISTER

Rectification

80 Rectification of the register

- (1) This section applies where the Keeper becomes aware of a manifest inaccuracy in a title sheet or in the cadastral map.
- (2) The Keeper must rectify the inaccuracy if what is needed to do so is manifest.
- (3) Where what is so needed is not manifest, the Keeper must enter a note identifying the inaccuracy in the title sheet or, as the case may be, in the cadastral map.
- (4) Where the Keeper rectifies an inaccuracy, the Keeper must—
 - (a) include in the archive record a copy of any document which discloses, or contributes to disclosing, the inaccuracy, and
 - (b) give notice of the rectification to any person who appears to the Keeper to be affected by it materially.
- (5) Land register rules may make provision about—
 - (a) the persons to be notified by the Keeper, and
 - (b) the method by which such notice is to be given.
- (6) A failure to comply with subsection (4) or with any rules so made does not affect the validity of a rectification under subsection (2).

81 Rectification where registration provisional etc.

- (1) This section applies where it appears to the Keeper that rectification of an inaccuracy would interrupt a period of possession—
 - (a) which is current, and
 - (b) which, if uninterrupted, would, under section 1(1) or 2(1) of the Prescription and Limitation (Scotland) Act 1973 (c.52) (sections which provide for positive prescription), affect a real right.
- (2) If the inaccuracy is in an entry marked provisional by virtue of section 44, the Keeper—
 - (a) may rectify the register if all those affected consent,
 - (b) where there is no such consent, must not rectify the register before the existence of the inaccuracy is judicially determined.
- (3) In any other case, the Keeper—
 - (a) must—
 - (i) mark the relevant entry in the title sheet provisional,
 - (ii) enter in the appropriate section of the title sheet the name and designation of the true holder of the right affected by the inaccuracy (if any such person can be identified),
 - (b) may rectify the register if all those affected consent,

Status: This is the original version (as it was originally enacted).

- (c) where there is no such consent, must not rectify the register before the existence of the inaccuracy is judicially determined.

Referral of questions to Lands Tribunal

82 Referral to the Lands Tribunal for Scotland

- (1) A person with an interest may refer a question relating to—
 - (a) the accuracy of the register, or
 - (b) what is needed to rectify an inaccuracy in the register,to the Lands Tribunal for Scotland.
- (2) The Lands Tribunal must, on determining the question, give notice to—
 - (a) the applicant,
 - (b) any other person appearing to them to have an interest, and
 - (c) the Keeper.
- (3) This section is without prejudice to any other right of recourse, whether under an enactment or under a rule of law.

Keeper's right to be heard in proceedings

83 Proceedings involving the accuracy of the register

The Keeper is entitled to appear and be heard in any civil proceedings, whether before a court or tribunal, in which—

- (a) the accuracy of the register, or
 - (b) what is needed to rectify an inaccuracy in the register,
- is put in question.

Compensation in consequence of rectification

84 Rectification: compensation for certain expenses and losses

- (1) The Keeper must pay compensation for—
 - (a) reimbursement of reasonable extra-judicial legal expenses incurred by a person in securing rectification of the register, and
 - (b) any loss sustained by the person in consequence of the inaccuracy rectified.
- (2) A claimant is not required to exhaust other remedies before making a claim to such compensation.
- (3) 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.
- (4) But it is a condition of any such payment that the claimant assigns any such rights to the Keeper.
- (5) Interest on a sum payable under this section runs from the date mentioned in subsection (6) until the sum in question is paid.

Status: This is the original version (as it was originally enacted).

- (6) The date is—
- (a) where the sum is payable by virtue of subsection (1)(a), the date on which the claimant paid the sum in question,
 - (b) where the sum is payable by virtue of subsection (1)(b), the date on which the loss was sustained.
- (7) The Scottish Ministers may by regulations make provision as to the rate of interest payable by virtue of subsection (5).

85 Rectification: circumstances where liability excluded

The Keeper has no liability to pay compensation under section 84—

- (a) if the inaccuracy is caused other than by a change made by the Keeper to a title sheet or the cadastral map,
- (b) if the inaccuracy is consequent on an error in the cadastral map and that error was made in reasonable reliance on the base map,
- (c) in so far as the inaccuracy is in an entry made on an application being accepted by virtue of section 43(1) or under section 43(5),
- (d) in so far as the inaccuracy is caused by some act or omission on the part of the claimant,
- (e) in so far as the claimant’s loss could have been avoided by the claimant taking certain measures which it would have been reasonable for the claimant to take,
- (f) in so far as the connection between the claimant’s loss and the inaccuracy is too remote, or
- (g) for non-patrimonial loss.

PART 9

RIGHTS OF PERSONS ACQUIRING ETC. IN GOOD FAITH

Ownership

86 Acquisition from disponent without valid title

- (1) This section applies where a person (“A”), who is not the proprietor of a registered plot of land but—
- (a) is entered in the proprietorship section of the title sheet as proprietor, and
 - (b) is in possession of the land,
- purports to disponent the land.
- (2) The disponee (“B”) acquires ownership of the land provided that the conditions in subsection (3) are met.
- (3) The conditions are that—
- (a) the land has been in the possession, openly, peaceably and without judicial interruption—
 - (i) of A for a continuous period of at least 1 year, or
 - (ii) of A and then of B for periods which together constitute such a period,

- (b) at no time during that period did the Keeper become aware that the register was inaccurate as a result of A (or B) not being the proprietor,
 - (c) B is in good faith,
 - (d) the disposition would have conferred ownership on B had A been proprietor when the land was disposed,
 - (e) at no time during the period mentioned in paragraph (a)—
 - (i) was the title sheet subject, by virtue of section 67, to a caveat relevant to the acquisition by B,
 - (ii) did the title sheet contain a statement under section 30(5), and
 - (f) the Keeper warrants (or is to be taken to warrant) A's title.
- (4) The date on which ownership is acquired by virtue of subsection (2) is—
- (a) where subsection (5) applies, the date on which the disposition is registered,
 - (b) where subsection (6) applies, the date on which the period of possession mentioned in that subsection expires.
- (5) This subsection applies where, as at the date of registration, the land has been in the possession, openly, peaceably and without judicial interruption—
- (a) of A for a continuous period of at least 1 year, or
 - (b) of A and then of B for periods which together constitute such a period.
- (6) This subsection applies where there is a continuous period of possession such as is mentioned in subsection (5) but that period, though it commences before registration on the application of B, does not expire until a date later than the date of registration.

87 Acquisition from representative of disponent without valid title

- (1) Section 86 also applies where a person (“P”), who is not entered in the proprietorship section of the title sheet as proprietor but who would have power to dispose the land—
- (a) were A the proprietor, or
 - (b) (where A has died) had A been the proprietor,
- purports to dispose it.
- (2) For the purposes of section 86, possession of the plot of land by P is to be treated as if it were possession of the land by A.

Leases

88 Acquisition from assigner without valid title

- (1) This section applies where a person (“A”), who is not the tenant under a registered lease but—
- (a) is shown in the title sheet as tenant, and
 - (b) is in possession of the subjects of the lease,
- purports to assign the lease.
- (2) The assignee (“B”) acquires the lease provided that the conditions in subsection (3) are met.
- (3) The conditions are that—

Status: This is the original version (as it was originally enacted).

- (a) the subjects of the lease have been in the possession, openly, peaceably and without judicial interruption—
 - (i) of A for a continuous period of at least 1 year, or
 - (ii) of A and then of B for periods which together constitute such a period,
 - (b) at no time during that period did the Keeper become aware that the register was inaccurate as a result of A (or B) not being the tenant,
 - (c) B is in good faith,
 - (d) the lease is extant,
 - (e) B would have acquired the lease had A been tenant when the lease was assigned,
 - (f) at no time during the period mentioned in paragraph (a) was the title sheet subject, by virtue of section 67, to a caveat relevant to the acquisition by B, and
 - (g) the Keeper warrants (or is to be taken to warrant) A's title.
- (4) The date on which the lease is acquired by virtue of subsection (2) is—
- (a) where subsection (5) applies, the date on which the deed of assignation is registered,
 - (b) where subsection (6) applies, the date on which the period of possession mentioned in that subsection expires.
- (5) This subsection applies where, as at the date of registration, the subjects of the lease have been in the possession, openly, peaceably and without judicial interruption—
- (a) of A for a continuous period of at least 1 year, or
 - (b) of A and then of B for periods which together constitute such a period.
- (6) This subsection applies where there is a continuous period of possession such as is mentioned in subsection (5) but that period, though it commences before registration on the application of B, does not expire until a date later than the date of registration.

89 Acquisition from representative of assigner without valid title

- (1) Section 88 also applies where a person (“P”), who is not entered in the title sheet as tenant but who would have power to assign the lease—
- (a) were A the tenant, or
 - (b) (where A has died) had A been the tenant,
- purports to assign it.
- (2) For the purposes of section 88, possession of the subjects of the lease by P is to be treated as if it were possession of the subjects by A.

Servitudes

90 Grant of servitude by person not proprietor

- (1) This section applies where a person (“A”), who is not the proprietor of a registered plot of land but—
- (a) is entered in the proprietorship section of the title sheet as proprietor, and
 - (b) is in possession of the land,
- purports to create a servitude, with the land as the burdened property.

- (2) The servitude is created provided that the conditions mentioned in subsection (3) are met.
- (3) The conditions are that—
 - (a) the land has been in the possession of A, openly, peaceably and without judicial interruption, for a continuous period of at least 1 year,
 - (b) at no time during that period did the Keeper become aware that the register was inaccurate as a result of A not being the proprietor,
 - (c) the proprietor of what is to be the benefited property is in good faith,
 - (d) at no time during the period mentioned in paragraph (a) was the title sheet subject, by virtue of section 67, to a caveat relevant to the creation of the servitude, and
 - (e) the Keeper warrants (or is to be taken to warrant) A's title.
- (4) The date on which the servitude is created by virtue of subsection (2) is—
 - (a) where subsection (5) applies, the date of registration,
 - (b) where subsection (6) applies, the date on which the period mentioned in that subsection expires.
- (5) This subsection applies where, as at the date of registration, the land has been in the possession of A, openly, peaceably and without judicial interruption, for a continuous period of at least 1 year.
- (6) This subsection applies where there is a continuous period of possession such as is mentioned in subsection (5) but that period, though it commences before registration, does not expire until a date later than the date of registration.
- (7) This section is subject to section 75 of the Title Conditions (Scotland) Act 2003 (asp 9) (creation of positive servitude by writing: deed to be registered).

Extinction of encumbrances etc.

91 Extinction of encumbrance when land disposed

- (1) Where the conditions mentioned in subsection (2) are met, a person (“A”) who acquires ownership of land on registration or on a later date by virtue of section 86(4) (b)—
 - (a) takes the land free of an encumbrance which is not entered in the title sheet as at the date on which A acquires ownership of the land, and
 - (b) any such encumbrance is extinguished.
- (2) The conditions are that, as at the date on which ownership is acquired—
 - (a) A is in good faith, and
 - (b) the title sheet is not, by virtue of section 67, subject to a caveat relevant to such acquisition by A.
- (3) Subsection (1) does not apply to an heritable security which is not entered in the securities section of a shared plot title sheet by virtue of section 18(3)(b).
- (4) “Encumbrance” in subsection (1) does not include—
 - (a) a public right of way,

Status: This is the original version (as it was originally enacted).

- (b) a path delineated in an order under section 22 of the Land Reform (Scotland) Act 2003 (asp 2) (compulsory powers to delineate paths in land in respect of which access rights are exercisable),
- (c) a servitude created other than under section 75(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
- (d) a lease, or
- (e) an encumbrance the creation of which does not require registration of the constitutive deed.

92 Extinction of encumbrance when lease assigned

- (1) Where the conditions mentioned in subsection (2) are met, a person (“A”) who acquires a registered lease on registration or on a later date by virtue of section 88(4)(b)—
- (a) takes that lease free of an encumbrance—
 - (i) of a kind mentioned in subsection (4), and
 - (ii) which is not entered in the title sheet as at the date on which A acquires the registered lease, and
 - (b) any such encumbrance is extinguished.
- (2) The conditions are that, as at the date on which the lease is acquired—
- (a) A is in good faith, and
 - (b) the title sheet is not, by virtue of section 67, subject to a caveat relevant to such acquisition by A.
- (3) Subsection (1) does not apply to an heritable security which is not entered in the securities section of a shared lease title sheet by virtue of paragraph 8(b) of schedule 1.
- (4) The encumbrances are—
- (a) a heritable security over the lease,
 - (b) a title condition such as is mentioned in paragraph (d) or (e) of the definition of “title condition” in section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9).

93 Extinction of floating charge when land disposed

A person who, in good faith, acquires ownership of land from another person (“A”), takes the land free of any floating charge which was granted by a predecessor in title of A.

Compensation in consequence of this Part

94 Compensation for loss incurred in consequence of this Part

- (1) The Keeper must pay compensation for loss incurred by a person mentioned in subsection (2).
- (2) The person is one who—
- (a) is deprived of a right by virtue of this Part, or
 - (b) is the proprietor of a property burdened by a servitude created by virtue of section 90.

- (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 assigns any such rights to the Keeper.
- (6) The Keeper has no liability to pay compensation—
 - (a) in so far as the claimant’s loss could have been avoided by the claimant taking certain measures which it would have been reasonable for the claimant to take,
 - (b) in so far as the claimant’s loss is too remote, or
 - (c) for non-patrimonial loss.

95 Quantification of compensation

- (1) Compensation payable by virtue of section 94(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 claimant lost the right or, as the case may be, on which the servitude was created, 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).

PART 10

ELECTRONIC DOCUMENTS, ELECTRONIC CONVEYANCING AND ELECTRONIC REGISTRATION

Electronic documents

96 Where requirement for writing satisfied by electronic document

- (1) The Requirements of Writing (Scotland) Act 1995 (c.7) (the “1995 Act”) is amended as follows.

- (2) In section 1 (writing required for certain contracts, obligations, trusts, conveyances and wills)—
- (a) in subsection (2)—
 - (i) for “subsections (2A) and” substitute “subsection”,
 - (ii) after “written document” insert “which is a traditional document”,
 - (iii) after “section 2” insert “or an electronic document complying with section 9B”,
 - (iv) after paragraph (b) insert—
 - “(ba) the constitution of an agreement under section 66(1) of the Land Registration etc. (Scotland) Act 2012 (asp 5),”
 - (b) in subsection (3)—
 - (i) for “subsections (2)(a) or (2A)” substitute “subsection (2)(a)”,
 - (ii) repeal “written”,
 - (iii) for “an electronic document complying with section 2A,” substitute “section 9B”,
 - (c) in subsection (5), for “subsections (2)(a) or (2A)” substitute “subsection (2)(a)”.
- (3) The provisions of section 1 as amended by subsection (2) become Part 1 of the Act.
- (4) The title of Part 1 is “When writing is required”.

97 Electronic documents

- (1) The 1995 Act is further amended as follows.
- (2) After section 9 insert—

“PART 3

ELECTRONIC DOCUMENTS

9A Application of Part 3

This Part applies to documents which, rather than being written on paper, parchment or some similar tangible surface are created in electronic form (“electronic documents”).

9B Validity of electronic documents

- (1) No electronic document required by section 1(2) is valid in respect of the formalities of execution unless—
 - (a) it is authenticated by the granter, or if there is more than one granter by each granter, in accordance with subsection (2), and
 - (b) it meets such other requirements (if any) as may be prescribed by the Scottish Ministers in regulations.
- (2) An electronic document is authenticated by a person if the electronic signature of that person—

Status: This is the original version (as it was originally enacted).

- (a) is incorporated into, or logically associated with, the electronic document,
 - (b) was created by the person by whom it purports to have been created, and
 - (c) is of such type, and satisfies such requirements (if any), as may be prescribed by the Scottish Ministers in regulations.
- (3) A contract mentioned in section 1(2)(a) may be regarded as constituted or varied (as the case may be) if—
- (a) the offer is contained in one or more electronic documents,
 - (b) the acceptance is contained in another electronic document or in other such documents, and
 - (c) each of the documents is authenticated by its granter or granters.
- (4) Where a person grants an electronic document in more than one capacity, authentication by the person of the document, in accordance with subsection (3), is sufficient to bind the person in all such capacities.
- (5) Nothing in this section prevents an electronic document which has not been authenticated by the granter or granters of it from being used as evidence in relation to any right or obligation to which the document relates.
- (6) Regulations under subsection (1)(b) or (2)(c) are subject to the negative procedure.

9C Presumption as to authentication of electronic documents

- (1) Where—
- (a) an electronic document bears to have been authenticated by the granter,
 - (b) nothing in the document or in the authentication indicates that it was not so authenticated, and
 - (c) the conditions set out in subsection (2) are satisfied,
- the document is to be presumed to have been authenticated by the granter.
- (2) The conditions are that the electronic signature incorporated into, or logically associated with, the document—
- (a) is of such type and satisfies such requirements as may be prescribed by the Scottish Ministers in regulations, and
 - (b) (either or both)—
 - (i) is used in such circumstances as may be so prescribed,
 - (ii) bears to be certified,
- and that if the electronic signature bears to be certified (and does not conform with paragraph (b)(i)) the certification is of such type and satisfies such requirements as may be so prescribed.
- (3) Regulations under subsection (2) are subject to the negative procedure.

9D Presumptions as to granter's authentication etc. when established in court proceedings

- (1) Where—

Status: This is the original version (as it was originally enacted).

- (a) an electronic document bears to have been authenticated by a granter of it, and
- (b) there is no presumption under section 9C that the document has been authenticated by that granter,

the court must, on an application being made to it by any person who has an interest in the document, if satisfied that the document was authenticated by that granter, grant decree to that effect.

(2) Where—

- (a) an electronic document bears to have been authenticated by a granter of it, and
- (b) there is no presumption by virtue of section 9E(1) as to the time, date or place of authentication,

the court must, on an application being made to it by any person who has an interest in the document, if satisfied as to that time, date or place, grant decree to that effect.

(3) On an application under subsection (1) or (2), evidence is, unless the court otherwise directs, to be given by affidavit.

(4) An application under subsection (1) or (2) may be made either as a summary application or as incidental to, and in the course of, other proceedings.

(5) The effect of a decree—

- (a) under subsection (1), is to establish a presumption that the document has been authenticated by the granter concerned, or
- (b) under subsection (2), is to establish a presumption that the statement in the decree as to time, date or place is correct.

(6) In this section, “the court” means—

- (a) in the case of a summary application—
 - (i) the sheriff in whose sheriffdom the applicant resides, or
 - (ii) if the applicant does not reside in Scotland, the sheriff at Edinburgh, or
- (b) in the case of an application made in the course of other proceedings, the court before which those proceedings are pending.

9E Further provision by Scottish Ministers about electronic documents

(1) The Scottish Ministers may, in regulations, make provision as to the effectiveness or formal validity of, or presumptions to be made with regard to—

- (a) any alteration made, whether before or after authentication, to an electronic document,
- (b) the authentication, by or on behalf of the granter, of such a document,
- (c) the authentication, by or on behalf of a person with a disability, of such a document, or
- (d) any annexation to such a document,

(including, without prejudice to the generality of this subsection, presumptions to be made with regard to the time, date and place of authentication of such a document).

Status: This is the original version (as it was originally enacted).

- (2) Regulations under subsection (1) may make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient for the purposes of, or in consequence of the regulations.
- (3) Subject to subsection (4), regulations under subsection (1) are subject to the negative procedure.
- (4) Regulations which—
 - (a) make provision of the kind mentioned in subsection (1)(b), or
 - (b) add to, replace or omit any part of an Act (including this Act),are subject to the affirmative procedure.

9F Delivery of electronic documents

- (1) An electronic document may be delivered electronically or by such other means as are reasonably practicable.
- (2) But such a document must be in a form, and such delivery must be by a means—
 - (a) the intended recipient has agreed to accept, or
 - (b) which it is reasonable in all the circumstances for the intended recipient to accept.

9G Registration and recording of electronic documents

- (1) Subject to subsection (6), it is not competent—
 - (a) to record an electronic document in the Register of Sasines,
 - (b) to register such a document in the Land Register of Scotland,
 - (c) to register such a document for execution or preservation in the Books of Council and Session, or
 - (d) to record or register such a document in any other register under the management and control of the Keeper of the Registers of Scotland,unless both subsection (2) and subsection (3) apply in relation to the document.
- (2) This subsection applies where—
 - (a) the document is presumed under section 9C or 9D or by virtue of section 9E(1) to have been authenticated by the grantor, or
 - (b) if there is more than one grantor, the document is presumed by virtue of any of those provisions to have been authenticated by at least one of the grantors.
- (3) This subsection applies where—
 - (a) the document,
 - (b) the electronic signature authenticating it, and
 - (c) if the document bears to be certified, the certification,are in such form and of such type as are prescribed by the Scottish Ministers in regulations.

Status: This is the original version (as it was originally enacted).

- (4) Before making regulations under subsection (3), the Scottish Ministers must consult with—
- (a) the Keeper of the Registers of Scotland,
 - (b) the Keeper of the Records of Scotland, and
 - (c) the Lord President of the Court of Session.
- (5) Regulations under subsection (3)—
- (a) may make different provision for different cases or classes of case, and
 - (b) are subject to the negative procedure.
- (6) Subsection (1) above does not apply in relation to—
- (a) a document's—
 - (i) being recorded in the Register of Sasines,
 - (ii) being registered in the Land Register of Scotland or in the Books of Council and Session, or
 - (iii) being recorded or registered in any other register under the management and control of the Keeper of the Registers of Scotland,
 if an enactment requires or expressly permits such recording or registration notwithstanding that the document is not presumed to have been authenticated by the granter or by at least one of the granters,
 - (b) the recording of a court decree in the Register of Sasines or the registering of such a decree in the Land Register of Scotland,
 - (c) the registering in the Books of Council and Session of—
 - (i) a document registration of which is directed by the Court of Session,
 - (ii) a document the formal validity of which is governed by a law other than Scots law, provided that the Keeper of the Registers of Scotland is satisfied that the document is formally valid according to that other law,
 - (iii) a court decree granted under section 9D, or by virtue of section 9E(1), of this Act in relation to a document already registered in the Books of Council and Session, or
 - (d) the registration of a court decree in a separate register maintained for that purpose.
- (7) An electronic document may be registered for preservation in the Books of Council and Session without a clause of consent to registration.”.

98 **Amendment of Requirements of Writing (Scotland) Act 1995**

Schedule 3, which contains modifications of the 1995 Act consequential on sections 96 and 97, has effect.

Electronic conveyancing

99 Automated registration

- (1) The Keeper may, by means of a computer system under the Keeper's management and control, enable—
 - (a) the creation of electronic documents,
 - (b) the electronic generation and communication of applications for registration in the register, and
 - (c) automated registration in the register.
- (2) Only a person authorised by the Keeper, whether directly or indirectly, may use the system mentioned in subsection (1) to make applications for registration.
- (3) The Scottish Ministers may, by regulations, make provision about the system mentioned in subsection (1) including—
 - (a) the kinds of deeds which may be authorised for use in the system,
 - (b) the persons who may be authorised to use the system,
 - (c) the suspension or revocation of a person's authorisation under subsection (2),
 - (d) the method of appeal against any such suspension or revocation,
 - (e) the imposition of obligations on persons using the system, and
 - (f) the creation of deemed warranties (whether in favour of the Keeper or of other users) by persons using the system.
- (4) Before making such regulations, the Scottish Ministers must consult the Keeper.

Electronic recording and registration

100 Power to enable electronic registration

- (1) The Scottish Ministers may, by regulations, make provision to enable the recording or registration of electronic documents in any register under the management and control of the Keeper.
- (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) regulating the making up and keeping of any such register,
 - (b) regulating the procedure to be followed by any person applying for recording or registration in any such register,
 - (c) regulating the procedure to be followed by the Keeper in relation to—
 - (i) any such application, and
 - (ii) the recording or registration of electronic documents to which such an application relates,
 - (d) that the Scottish Ministers consider necessary or expedient to enable recording or registration of electronic documents in any such register.
- (3) Regulations under subsection (1) may modify any enactment.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) the Keeper,
 - (b) the Keeper of the Records of Scotland, and
 - (c) the Lord President of the Court of Session.

Status: This is the original version (as it was originally enacted).

PART 11

MISCELLANEOUS AND GENERAL

Deduction of title

101 Deduction of title

- (1) Where a person applies to register a deed mentioned in subsection (2), the deed need not deduce title.
- (2) The deed is one validly granted by the unregistered holder of—
 - (a) land, or
 - (b) a real right in land,to which the deed relates.

Notes on register

102 Note of date on which entry in register is made

When an entry is made in the register there is to be included in that entry the date on which it is made.

Appeals

103 Appeals

- (1) An appeal may be made to the Lands Tribunal for Scotland, on a question of fact or on a point of law, against any decision of the Keeper under this Act.
- (2) Subsection (1) is without prejudice to any other right of recourse, whether under an enactment or under a rule of law.
- (3) Where a person successfully appeals against a decision of the Keeper to reject an application for registration, the application is not revived.

Extracts and certified copies

104 Extracts and certified copies: general

- (1) A person may apply to the Keeper for an extract—
 - (a) of, or of any part of, a title sheet,
 - (b) of any part of the cadastral map, or
 - (c) of, or of any part of, a document in the archive record.
- (2) A person may apply to the Keeper for a certified copy—
 - (a) of an application or advance notice in the application record,
 - (b) of, or of any part of, any other document in that record.
- (3) The Keeper must issue the extract or, as the case may be the certified copy, if—

- (a) such fee as is payable for issuing it is paid, or
 - (b) arrangements satisfactory to the Keeper are made for payment of that fee.
- (4) If, on application under subsection (1)(a) or (b), the applicant requests an extract in relation to a title sheet or the cadastral map as at a specific date, the Keeper need comply with the request only to the extent that it is reasonably practicable to do so.
- (5) An extract of a part of the cadastral map issued under subsection (3)—
- (a) must include the base map so far as relating to that part either—
 - (i) as at the date on which the extract is issued, or
 - (ii) if the Keeper considers it appropriate to do so, as at some earlier date, and
 - (b) must specify the base map date opted for under paragraph (a).
- (6) The Keeper may authenticate the extract or, as the case may be the certified copy, as the Keeper considers appropriate.
- (7) The Keeper may issue the extract, or as the case may be the certified copy, as an electronic document if (and only if) the applicant requests that it be issued in that form.

105 Evidential status of extract or certified copy

- (1) An extract or certified copy issued under subsection (3) of section 104 in relation to an application under subsection (1)(a) or (b) or (2)(a) of that section is to be accepted for all purposes as sufficient evidence of the contents—
- (a) of the original, and
 - (b) of any matter relating to the original which appears on the extract or copy.
- (2) An extract or certified copy issued under subsection (3) of that section in relation to an application under subsection (1)(c) or (2)(b) of that section is to be accepted for all purposes as sufficient evidence of the contents—
- (a) of the document as submitted to the Keeper, and
 - (b) of any matter relating to the document as so submitted which appears on the extract or copy.

106 Liability of Keeper in respect of extracts, information and lost documents etc.

- (1) A person is entitled to be compensated by the Keeper in respect of loss suffered as a consequence of—
- (a) the issue of an extract or certified copy under section 104 that is not a true extract, or as the case may be a true copy,
 - (b) the provision (in writing or in such other manner as provision is made for in an order under section 107(1)(a)) of other information as to the contents of the register that is incorrect,
 - (c) a document being lost, damaged or destroyed while lodged with the Keeper.
- (2) The Keeper has no liability under subsection (1)—
- (a) in so far as the claimant's loss could have been avoided by the applicant or claimant taking certain measures which it would have been reasonable for the applicant or claimant to take,
 - (b) in so far as a claimant's loss is too remote, or
 - (c) for non-patrimonial loss.

Status: This is the original version (as it was originally enacted).

Information and access

107 Information and access

- (1) The Scottish Ministers may, by order, make further provision as regards—
 - (a) information to be made available by the Keeper and the manner in which it is to be made available,
 - (b) access to any register under the management and control of the Keeper.
- (2) In subsection (1)(a), “information” includes information in the form of extracts and certified copies.

Keeper’s functions

108 Provision of services by the Keeper

- (1) The Keeper may provide consultancy, advisory or other commercial services.
- (2) Those services need not relate to the law and practice of registration.
- (3) The terms on which those services are provided (including the fees charged for provision of them) are to be such as may be agreed between the Keeper and those provided with them.
- (4) If the Keeper considers it expedient to do so in connection with the provision of any of those services, the Keeper may (either or both)—
 - (a) form, or participate in the forming of, a body corporate or other entity,
 - (b) purchase, or invest in, a body corporate or other entity.
- (5) This section does not affect any other power or duty of the Keeper.

109 Performance of Keeper’s functions during vacancy in office etc.

- (1) This section applies where—
 - (a) there is a vacancy in the office of the Keeper or the Keeper is incapable by reason of ill health of performing the Keeper’s functions, and
 - (b) no person has been authorised by the Scottish Ministers, under section 1(6) of the Public Registers and Records (Scotland) Act 1948 (c.57), to perform the functions of the Keeper.
- (2) A member of the Keeper’s staff may perform the Keeper’s functions.
- (3) Any function performed by a member of the Keeper’s staff by virtue of subsection (2) is to be treated as if it had been performed by the Keeper.

Fees

110 Fees

- (1) The Scottish Ministers may, by order—
 - (a) provide for the fees payable in relation to—

Status: This is the original version (as it was originally enacted).

- (i) registering, recording or entering in any register under the management and control of the Keeper,
 - (ii) access to such a register,
 - (iii) information made available by the Keeper,
 - (b) provide for the method of paying any such fees, and
 - (c) authorise the Keeper to determine, in such circumstances and subject to such limitations and conditions as may be specified in the order, any such fees.
- (2) An order under this section may make different provision for different cases or for different classes of case.
- (3) Before making an order under this section, the Scottish Ministers must consult the Keeper about, among other things—
 - (a) the expenses incurred by the Keeper in relation to administering and improving the systems of—
 - (i) registering, recording or entering in any register under the management and control of the Keeper,
 - (ii) providing access to any such register, and
 - (iii) making information available,
 - (b) in the case of the register, the expenses incurred by the Keeper in bringing all titles to land into it,
 - (c) the desirability of encouraging registering, recording and entering in any register under the management and control of the Keeper.
- (4) In subsections (1)(a)(iii) and (3)(a)(iii), “information”—
 - (a) includes information in the form of extracts and certified copies,
 - (b) does not include information provided by virtue of section 108.

Duty to take reasonable care

111 Duties of certain persons

- (1) A person mentioned in subsection (2) must take reasonable care to ensure that the Keeper does not inadvertently make the register inaccurate as a result of a change made in consequence of the grant mentioned in that subsection.
- (2) The persons are—
 - (a) a person granting a deed intended to be registered,
 - (b) a person who, in connection with the grant, acts as a solicitor or other legal adviser to the grantor.
- (3) A person mentioned in subsection (4) must take reasonable care to ensure that the Keeper does not inadvertently make the register inaccurate as a result of a change made in consequence of the application mentioned in that subsection.
- (4) The persons are—
 - (a) a person making an application for registration,
 - (b) a person who, in connection with the application, acts as a solicitor or other legal adviser to the applicant.
- (5) The Keeper is entitled to be compensated by a person in breach of the duty under subsection (1) or (3) for any loss suffered as a consequence of that breach.

Status: This is the original version (as it was originally enacted).

- (6) But a person has no liability under subsection (5) in so far as—
- (a) the Keeper’s loss could have been avoided by the Keeper taking certain measures which it would have been reasonable for the Keeper to take, or
 - (b) the Keeper’s loss is too remote.

Offence

112 Offence relating to applications for registration

- (1) A person mentioned in subsection (2) commits an offence if the person—
- (a) makes a materially false or misleading statement in relation to an application for registration knowing that, or being reckless as to whether, the statement is false or misleading, or
 - (b) intentionally fails to disclose material information in relation to such an application or is reckless as to whether all material information is disclosed.
- (2) The persons are—
- (a) a person making an application for registration, or
 - (b) a person who, in connection with such an application, acts as solicitor or other legal adviser to the applicant.
- (3) It is a defence for a person charged with an offence under subsection (1) (the “accused”) that the accused took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) The defence is established if the accused—
- (a) acted in reliance on information supplied by another person, and
 - (b) did not know and had no reason to suppose that—
 - (i) the information was false or misleading, or
 - (ii) all material information had not been disclosed.
- (5) Subsection (4) does not exclude other ways of establishing the defence mentioned in subsection (3).
- (6) An accused may not rely on a defence involving the allegation that the commission of the offence was due to reliance on information supplied by another person unless—
- (a) the accused has complied with subsection (7), or
 - (b) the court grants leave.
- (7) The accused must serve on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as is in the accused’s possession—
- (a) in proceedings on indictment, at least 14 clear days before the preliminary hearing (where the case is to be tried in the High Court) or the first diet (where the case is to be tried in the sheriff court),
 - (b) in summary proceedings—
 - (i) where an intermediate diet is held, at or before that diet,
 - (ii) where no such diet is held, at least 10 clear days before the trial diet.
- (8) Subsection (6) does not apply where—
- (a) the accused lodges a defence statement—

Status: This is the original version (as it was originally enacted).

- (i) under section 70A of the Criminal Procedure (Scotland) Act 1995 (c.46), or
 - (ii) under section 125 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) in accordance with the time limits mentioned in subsection (7)(b), and
- (b) the accused’s defence involves an allegation that the commission of the offence was due to reliance on information supplied by another person.
- (9) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months, to a fine not exceeding the statutory maximum, or to both,
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years, to a fine, or to both.

General provisions

113 Interpretation

- (1) In this Act, unless the context otherwise requires—
- “1995 Act” means the Requirements of Writing (Scotland) Act 1995 (c.7),
 - “advance notice” has the meaning given by section 56(1),
 - “application for registration” means an application under section 21 or 27,
 - “application record” has the meaning given by section 15,
 - “archive record” has the meaning given by section 14(1),
 - “the base map” has the meaning given by section 11(6),
 - “benefited property” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
 - “burdened property” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
 - “cadastral map” has the meaning given by section 11(1),
 - “cadastral unit” has the meaning given by section 12,
 - “date of application” (in relation to an application for registration) has the meaning given by section 36,
 - “date of registration” has the meaning given by 37(1),
 - “deed” means a document (and includes a decree which is registrable under an enactment),
 - “designation” includes—
 - (a) where the person designated is not a natural person—
 - (i) the legal system under which the person is incorporated or otherwise established,
 - (ii) if a number has been allocated to the person under section 1066 of the Companies Act 2006 (c.46), that number, and
 - (iii) any other identifier (whether or not a number) peculiar to the person, and
 - (b) if the person designated has a right in land in a special capacity, a description of that capacity,
 - “the designated day” has the meaning given by section 122,
 - “enactment” includes—

Status: This is the original version (as it was originally enacted).

- (a) an enactment comprised in, or in an instrument made under, this Act, and
 - (b) a local and personal or private Act,
- “existing title sheet” means a title sheet which is in existence immediately before the commencement of the designated day,
- “flat” has the meaning given by section 29(1) of the Tenements (Scotland) Act 2004 (asp 11),
- “flatted building” has the meaning given by section 16(4),
- “heritable creditor” means the holder of a heritable security,
- “heritable security” means—
- (a) a standard security, or
 - (b) any other right in security over heritable property provided that it is not a right in security created as a floating charge,
- “the Keeper” means the Keeper of the Registers of Scotland,
- “land” includes—
- (a) buildings and other structures,
 - (b) the seabed of the territorial sea of the United Kingdom adjacent to Scotland (including land within the ebb and flow of the tide at ordinary spring tides), and
 - (c) other land covered with water,
- “land register rules” means rules made under section 115(1),
- “lease” includes sub-lease,
- “lease title sheet” means a title sheet for a registered lease,
- “personal real burden” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
- “plot of land” has the meaning given by section 3(4) and (5),
- “possession” includes civil possession (analogous expressions being construed accordingly),
- “proprietor” means a person who has a valid completed title as proprietor to a plot of land,
- “protected period” has the meaning given by section 58(3),
- “the register” means the Land Register of Scotland,
- “registrable deed” is to be construed in accordance with section 49,
- “sharing plot” and “shared plot” are to be construed in accordance with section 17(3),
- “tenement” has the meaning given by section 26 of the Tenements (Scotland) Act 2004 (asp 11),
- “title condition” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9),
- “title sheet record” has the meaning given by section 3(3).
- (2) A deed on which an application under section 21 is based is “valid” for the purposes of this Act if—
- (a) by the registration applied for, a right would be acquired, varied or extinguished, or
 - (b) the deed is certificatory of an acquisition, variation or extinction which has taken place.
- (3) In relation to a lease title sheet, any reference in this Act—

- (a) to a proprietor is (except in section 66) to be read as a reference to the tenant,
 - (b) to a proprietorship section is to be construed as a reference to a tenancy section, and
 - (c) to ownership in common is to be construed as a reference to tenancy in common.
- (4) The Scottish Ministers may, by order, amend paragraph (b) of the definition of “designation” in subsection (1).
- (5) Before making such an order, the Scottish Ministers must consult the Keeper.

114 References to “registering” etc. in the Land Register of Scotland

- (1) In this Act (other than subsection (2)), unless the context otherwise requires—
- (a) any reference to “registration” is to registration in the register, and
 - (b) analogous expressions are to be construed accordingly.
- (2) Unless the context otherwise requires—
- (a) any reference, however expressed, in any enactment to “registering” a document in the register, is to be construed as including a reference to giving effect to that document in accordance either with section 30 or with section 31, and
 - (b) analogous expressions are to be construed accordingly.

115 Land register rules

- (1) The Scottish Ministers may, by regulations, make land register rules—
- (a) regulating the making up and keeping of the register,
 - (b) regulating the procedure in relation to applications for registration,
 - (c) prescribing forms to be used in relation to the register,
 - (d) as to when the application record is open for the making of entries,
 - (e) requiring the Keeper to enter in the title sheet record such information as may be specified in the rules or authorising or requiring the Keeper to enter in that record such rights or obligations as may be so specified,
 - (f) relating to any other matter which this Act provides may or must be provided for by land register rules, or
 - (g) concerning other matters and seeming to them to be necessary or expedient in order to give full effect to the purposes of this Act.
- (2) Before making land register rules, the Scottish Ministers must consult the Keeper.

116 Subordinate legislation

- (1) Any power conferred by this Act on the Scottish Ministers to make orders or regulations may be exercised to make different provision for different cases or descriptions of case or for different purposes.
- (2) Orders and regulations under the following sections are subject to the negative procedure—
- (a) section 11(6)(b),
 - (b) section 27(6),

Status: This is the original version (as it was originally enacted).

- (c) section 45(7),
 - (d) section 48(2) or (3),
 - (e) section 56(4),
 - (f) subject to subsection (4)(a), section 100(1),
 - (g) section 115(1),
 - (h) subject to subsection (4)(b), section 117(1).
- (3) Orders and regulations under the following provisions are subject to the affirmative procedure—
- (a) section 37(3),
 - (b) section 43(8),
 - (c) section 58(6),
 - (d) section 61(3)(b),
 - (e) section 64(1),
 - (f) section 68(3),
 - (g) section 79(4),
 - (h) section 84(7),
 - (i) section 95(4),
 - (j) section 99(3),
 - (k) section 107(1),
 - (l) section 110(1),
 - (m) section 113(4).
- (4) Orders and regulations under the following sections which add to, replace or omit the text of any Act are subject to the affirmative procedure—
- (a) section 100(1),
 - (b) section 117(1).

117 Ancillary provision

- (1) The Scottish Ministers may, by order, make such incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Act.
- (2) An order under subsection (1) may modify any enactment (including this Act).

118 Transitional provisions

Schedule 4, which contains transitional provisions, has effect.

119 Minor and consequential modifications

Schedule 5, which contains minor amendments and repeals, and amendments and repeals consequential upon the provisions of this Act, has effect.

120 Saving provisions

- (1) The amendments to the Prescription and Limitation (Scotland) Act 1973 (c.52) made by paragraph 18(2) and (4) of schedule 5 do not apply in relation to a continuous period which has expired before the designated day.
- (2) Despite the repeal, by paragraph 19(5) of schedule 5, of section 28(1) of the Land Registration (Scotland) Act 1979 (c.33), that section continues to have effect for the purposes of sections 15(4), 16, 20 to 22A and 29 of and schedules 1 and 3 to the 1979 Act.

121 Crown application

- (1) No contravention by the Crown of section 112 makes the Crown criminally liable.
- (2) But the Court of Session may, on the application of the Keeper or any person authorised by the Keeper, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (1), section 112 applies to persons in the public service of the Crown as it applies to other persons.

122 The designated day

The Scottish Ministers may, for the purposes of this Act, by order, designate a day (“the designated day”), being a day which falls not less than 6 months after the order is made.

123 Commencement

- (1) The following sections come into force on the day after Royal Assent—
 - (a) section 113,
 - (b) section 114(1),
 - (c) section 116,
 - (d) section 117,
 - (e) section 122,
 - (f) this section, and
 - (g) section 124.
- (2) The following provisions of this Act come into force on the designated day—
 - (a) Parts 1 to 9 (other than sections 53(4) and 64) and schedules 1 and 2,
 - (b) sections 101 to 106,
 - (c) section 111,
 - (d) section 112,
 - (e) section 114(2),
 - (f) section 115,
 - (g) section 118 and schedule 4,
 - (h) section 119 and schedule 5,
 - (i) section 120, and
 - (j) section 121.

Status: This is the original version (as it was originally enacted).

- (3) The other provisions of this Act come into force on such day as the Scottish Ministers may, by order, appoint.

124 Short title

The short title of this Act is the Land Registration etc. (Scotland) Act 2012.