

Land Registration etc. (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Additional information in relation to proprietors

4, 48, 5, 6

References to entries in Register of Inhibitions

7, 9

Conditions of registration: references to the plot

8

Order in which applications for registration are dealt with

10

Prescriptive claimants: notification

49, 50, 51, 52

Prescriptive claimants: conditions on period of possession

11, 12, 13

Closure of Register of Sasines: consultation and procedure

14, 34, 38

Completion of the register: target dates etc.

53, 54, 55

Advance notices

15, 16, 17, 18, 35, 36, 37, 39, 40, 41

Inaccuracy: provisional entries

19

Proceedings involving accuracy of the Register

20, 21

Exclusions from Keeper's warranty

22, 23, 24

Compensation: rate of interest

25, 26, 27, 42

Referral of questions to the Lands Tribunal

43

Requirements of writing

28, 29, 30

Keeper-induced registration: fees

1

Duties of certain persons

2

Offence relating to applications for registration

44, 45, 31, 46, 32, 33, 3, 47

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Additional information in relation to proprietors

Rhoda Grant

Supported by: John Park

- 4 In section 7, page 3, line 12, after <proprietor,> insert—
- <() such additional information in relation to the proprietor as may be required under land register rules,>

Patrick Harvie

- 48 In section 22, page 9, line 35, at end insert—
- <() the application includes information enabling all those persons who gain economic benefit from proprietorship of the plot to be identified,>

Rhoda Grant

Supported by: John Park

- 5 After section 98, insert—
- <The proprietorship section of the title sheet: further provision*

The proprietorship section of the title sheet: further provision

- (1) The Keeper must, where the proprietor is of a class specified in land register rules, enter in the proprietorship section of the title sheet such additional information in relation to the proprietor as may be specified in the rules, if—
- (a) a person applies to the Keeper for such information to be added, and
- (b) such fee as is payable for adding it is paid or arrangements satisfactory to the Keeper are made for payment of that fee.
- (2) Where, under this section, the Keeper is required to enter additional information in the proprietorship section of a title sheet, the proprietor must provide the Keeper with such information as the Keeper considers is reasonably required, within such reasonable time and in such manner as may be specified by the Keeper.>

Rhoda Grant

Supported by: John Park

- 6 In section 111, page 58, line 9, at end insert—
- <() requiring the Keeper, where the proprietor is of a class specified in the rules, to enter in the proprietorship section of the title sheet such additional information in relation to the proprietor as may be specified in the rules,>

References to entries in Register of Inhibitions

Fergus Ewing

- 7 In section 10, page 4, line 23, leave out from <if> to end of line 24 and insert <made under section (*References to certain entries in Register of Inhibitions*)(2),>

THIS IS NOT THE MARSHALLED LIST

Fergus Ewing

9 After section 31, insert—

<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 signed summons in an action of reduction of a deed granted in breach of inhibition.>

Conditions of registration: references to the plot

Fergus Ewing

8 In section 25, page 12, line 22, after <subordinate> insert <real>

Order in which applications for registration are dealt with

Fergus Ewing

10 In section 38, page 17, line 31, at end insert—

- <() Subsection (7) 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.>

Prescriptive claimants: notification

Patrick Harvie

49 In section 42, page 19, line 13, leave out <(4)> and insert <(4A)>

Patrick Harvie

50 In section 42, page 19, line 33, at end insert—

THIS IS NOT THE MARSHALLED LIST

- <() every local authority any part of whose area is within the plot to which the application relates,
- () every community council any part of whose area is within the plot to which the application relates,
- () each member of—
 - (A) a local authority,
 - (B) the Scottish Parliament,
 - (C) the House of Commons, and
 - (D) the European Parliament,who represents a ward, constituency or region any part of which lies within the plot to which the application relates, and
- () such other persons as may be prescribed by land register rules, being representative of the interests of those who live, work or carry on business in the area in the vicinity of the plot to which the application relates.>

Patrick Harvie

51 In section 42, page 19, line 33, at end insert—

- <(4A) The applicant satisfies the Keeper that notifications required under subsection (4) have been issued at least 60 days before the application.>

Patrick Harvie

52 In section 44, page 20, line 28, at end insert—

- <() every local authority any part of whose area is within the plot to which the application relates,
- () every community council any part of whose area is within the plot to which the application relates,
- () each member of—
 - (A) a local authority,
 - (B) the Scottish Parliament,
 - (C) the House of Commons, and
 - (D) the European Parliament,who represents a ward, constituency or region any part of which lies within the plot to which the application relates, and
- () such other persons as may be prescribed by land register rules, being representative of the interests of those who live, work or carry on business in the area in the vicinity of the plot to which the application relates.>

THIS IS NOT THE MARSHALLED LIST

Prescriptive claimants: conditions on period of possession

Fergus Ewing

- 11 In section 42, page 19, leave out lines 18 to 26 and insert <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.>

Fergus Ewing

- 12 In section 42, page 20, line 6, leave out <paragraph (a) or (b) of>

Fergus Ewing

- 13 In section 42, page 20, line 7, leave out <in the sub-paragraph in question> and insert <there>

Closure of Register of Sasines: consultation and procedure

Fergus Ewing

- 14 In section 47, page 22, line 3, at end insert <, and
- () 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.>

Fergus Ewing

- 34 In section 112, page 58, line 23, at end insert—
- <() section 47(2) or (3),>

Fergus Ewing

- 38 In section 112, page 58, leave out line 33

Completion of the register: target dates etc.

Patrick Harvie

- 53 After section 47, insert—

<Completion of the register: target dates

Completion of the register: target dates

- (1) The Scottish Ministers must, by order, set—
 - (a) a date by which 80% of the land in Scotland is to be included on the register, and
 - (b) a date by which all of the land in Scotland is to be included on the register.

THIS IS NOT THE MARSHALLED LIST

- (2) The first order under subsection (1) must be laid before the Scottish Parliament within 6 months after the date the Bill for this Act receives Royal Assent.
- (3) The Scottish Ministers and the Keeper must exercise their respective functions under this Act in the way best calculated to achieve the completion or as the case may be interim completion of the register by the dates set under subsection (1).
- (4) The Scottish Ministers may, by order, modify either or both of the dates set under subsection (1).>

Patrick Harvie

54 After section 47, insert—

<Report on progress towards completion of the register

- (1) The Scottish Ministers must, as soon as practicable after the end of each period of 3 years beginning on the date the Bill for this Act receives Royal Assent, lay before the Scottish Parliament a report on progress towards completion of the register.
- (2) Each report must include—
 - (a) an assessment of whether there are particular types of land in relation to which progress towards completion of the register is slower than it is in relation to other types of land,
 - (b) an assessment of the extent to which the proprietorship of land held in any form of common ownership has been identified and included in the register,
 - (c) an assessment of any barriers that have been identified in relation to completion of the register, and
 - (d) a statement of the actions that the Scottish Ministers and the Keeper intend to take to ensure progress towards completion of the register.>

Patrick Harvie

55 In section 112, page 58, line 33, at end insert—

<() section (*Completion of the register: target dates*)(1) or (4),>

Advance notices

Fergus Ewing

15 In section 58, page 28, line 29, leave out subsections (4) to (7)

Fergus Ewing

16 After section 58, insert—

<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.

THIS IS NOT THE MARSHALLED LIST

- (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.>

Fergus Ewing

17 After section 58, insert—

<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 58 and (*Effect of advance notice: recorded deeds*) apply irrespective of whether a deed is voluntary or involuntary.
- (3) Sections 58 and (*Effect of advance notice: recorded deeds*) 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.>

Fergus Ewing

18 In section 60, page 29, line 22, at end insert <and

- () if the notice has not already been entered in the archive record, enter it in that record,>

Fergus Ewing

35 In section 112, page 58, line 23, at end insert—

- <() section 55(4),>

Fergus Ewing

36 In section 112, page 58, leave out line 24

Fergus Ewing

37 In section 112, page 58, leave out line 25

THIS IS NOT THE MARSHALLED LIST

Fergus Ewing

- 39 In section 112, page 58, leave out line 34

Fergus Ewing

- 40 In section 112, page 58, line 35, at end insert—
<() section (*Effect of advance notice: further provision*)(3)(b),>

Fergus Ewing

- 41 In section 112, page 58, line 35, at end insert—
<() section 61(1),>

Inaccuracy: provisional entries

Fergus Ewing

- 19 In section 62, page 30, leave out line 4

Proceedings involving accuracy of the Register

Fergus Ewing

- 20 In section 64, page 30, line 30, after <register> insert <, or
() what is needed to rectify an inaccuracy in the register,>

Fergus Ewing

- 21 Move section 64 to after section 79

Exclusions from Keeper's warranty

Fergus Ewing

- 22 In section 71, page 33, line 36, at end insert—
<() 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>

Fergus Ewing

- 23 In section 72, page 34, line 14, leave out <(other than paragraph (h))>

Fergus Ewing

- 24 In section 72, page 34, line 16, leave out <References in section 71(2)> and insert <Subsection (2) of section 71 is subject to the following modifications—

THIS IS NOT THE MARSHALLED LIST

(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>

Compensation: rate of interest

Fergus Ewing

25 In section 77, page 36, line 29, leave out <Land register rules may> and insert <The Scottish Ministers may by regulations>

Fergus Ewing

26 In section 80, page 38, line 15, leave out <Land register rules may> and insert <The Scottish Ministers may by regulations>

Fergus Ewing

27 In section 91, page 43, line 37, leave out <Land register rules may> and insert <The Scottish Ministers may by regulations>

Fergus Ewing

42 In section 112, page 58, line 36, at end insert—

- <() section 77(4),
- () section 80(7),
- () section 91(4),>

Referral of questions to the Lands Tribunal

Mike MacKenzie

43 After section 79, insert—

<Referral of questions to Lands Tribunal

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,

THIS IS NOT THE MARSHALLED LIST

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.>

Requirements of writing

Fergus Ewing

- 28 In section 93, page 47, line 20, after <which> insert <—
() make provision of the kind mentioned in subsection (1)(b), or
()>

Fergus Ewing

- 29 In schedule 3, page 67, line 10, at end insert—
<() after subsection (1)(b) insert—
“(ba) to register a traditional document in the Land Register of Scotland,”
() for subsection (3)(a) substitute—
“(a) a document’s—
(i) being recorded in the Register of Sasines, or
(ii) being registered in the Land Register of Scotland, in the Books of Council and Session or in sheriff court books,
if an enactment requires or expressly permits such recording or registration notwithstanding that the document is not presumed to have been subscribed by the granter or by at least one of the granters,”
() in subsection (3)(b), after “Sasines” insert “or the registering of such a decree in the Land Register of Scotland”,>

Fergus Ewing

- 30 In schedule 3, page 69, line 2, at end insert—
<In section 13 (Crown application), in subsection (1)(c), after “Sasines” insert “, registered in the Land Register of Scotland”.>

Keeper-induced registration: fees

Murdo Fraser

- 1 In section 106, page 53, line 21, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() An order under this section may not provide for fees to be payable in relation to registration under section 29.>

Duties of certain persons

Murdo Fraser

2 In section 107, page 54, line 16, at end insert—

<() The duties under—

- (a) subsection (1) subsist until delivery of the deed,
- (b) subsection (3) subsist until the application is delivered to the Keeper.>

Offence relating to applications for registration

Murdo Fraser

44 In section 108, page 54, line 27, leave out <, or being reckless as to whether,>

Murdo Fraser

45 In section 108, page 54, line 30, leave out from <or> to end of line

Fergus Ewing

31 In section 108, page 55, leave out lines 4 and 5

Murdo Fraser

46 In section 108, page 55, line 5, at end insert—

<() followed, where the accused is a person mentioned in subsection (2)(b), all relevant regulations and guidance—

- (a) issued or referred to by the Law Society of Scotland or, as the case may be, an approved regulator under section 7 of the Legal Services (Scotland) Act 2010 (asp 16), and
- (b) in force at the time the alleged offence took place.>

Fergus Ewing

32 In section 108, page 55, leave out lines 14 to 16 and insert—

<(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.>

THIS IS NOT THE MARSHALLED LIST

Fergus Ewing

33 In section 108, page 55, line 16, at end insert—

<() Subsection (6) does not apply where—

(a) the accused lodges a defence statement—

- (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.>

Murdo Fraser

3 Leave out section 108

Murdo Fraser

47 After section 108, insert—

<Review of operation of section 108

- (1) The Scottish Ministers must appoint a person (“the independent reviewer”) to review the operation of section 108 in each calendar year, beginning with the first complete calendar year after the Bill for this Act receives Royal Assent.
- (2) Each review must be completed as soon as practicable after the end of the calendar year to which the review relates.
- (3) The independent reviewer must send a report on the outcome of each review to the Scottish Ministers.
- (4) A report under subsection (3) must in particular—
 - (a) set out the objectives intended to be achieved by section 108,
 - (b) assess the extent to which those objectives have been achieved in the calendar year to which the report relates,
 - (c) assess whether those objectives remain appropriate and if so to what extent,
 - (d) set out the conclusions of the review.
- (5) On receiving a report under subsection (3) the Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (6) The Scottish Ministers may pay to the independent reviewer such allowances and expenses as the Scottish Ministers may determine.>

