



Land Registration etc. (Scotland) Act 2012

2012 asp 5

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.

Changes to legislation: Land Registration etc. (Scotland) Act 2012, Part 6 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

11 [S. 67](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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.

Commencement Information

12 [S. 68](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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.

Commencement Information

13 [S. 69](#) in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

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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.

Commencement Information

I4 S. 70 in force at 8.12.2014 by [S.S.I. 2014/127, art. 2](#)

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.

Commencement Information

I5 S. 71 in force at 8.12.2014 by [S.S.I. 2014/127, art. 2](#)

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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.

Commencement Information

16 S. 72 in force at 8.12.2014 by [S.S.I. 2014/127](#), [art. 2](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 48A48B and cross-heading inserted by [2016 asp 18 s. 43\(2\)](#)
- s. 116(3)(ba)(bb) inserted by [2016 asp 18 s. 43\(3\)](#)