



# Land Registration etc. (Scotland) Act 2012

## 2012 asp 5

### 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,

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*Status: This is the original version (as it was originally enacted).*

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- (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.