



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 1

ASSIGNATION

CHAPTER 2

REGISTER OF ASSIGNATIONS

Entitlement to compensation

37 Liability of Keeper

- (1) A person is entitled to be compensated by the Keeper for loss suffered in consequence of—
- (a) an inaccuracy in the assignments record to the extent that it is attributable to the making up, maintenance or operation of the register (including an attempted correction of it),
 - (b) the issue, under [section 26\(1\)](#), of a written statement which is incorrect,
 - (c) the service, under [section 30\(3\)](#), of a notification which is incorrect,
 - (d) a search result which—
 - (i) relates to a search of the assignments record carried out by means of a search facility provided by the Keeper,
 - (ii) ought (as a result of the search terms used) to reflect accurately the contents of the assignments record at the time the search was made, and
 - (iii) does not accurately reflect those contents,
 - (e) the issue, under [section 35](#), of an extract which is not a true extract,
 - (f) an application being accepted or rejected in error,

Status: This is the original version (as it was originally enacted).

- (g) an attempt to make an application, which the Keeper would otherwise have accepted, failing as a result of an error in the system the Keeper has for accepting applications, or
 - (h) applications being dealt with otherwise than in the order in which they are received.
- (2) But the Keeper has no liability under [subsection \(1\)](#)—
- (a) in so far as the person’s loss could have been avoided had the person taken measures which it would have been reasonable for the person to take,
 - (b) in so far as the person’s loss was not reasonably foreseeable, or
 - (c) for non-patrimonial loss.
- (3) For the avoidance of doubt, an inaccuracy in information included in an entry in the assignations record when that entry is made up under [section 25\(1\)\(a\)](#) or corrected under [section 29](#) does not fall within [subsection \(1\)\(a\)](#) to the extent that the Keeper—
- (a) has been misled into making the inaccuracy, and
 - (b) reasonably believed the information to be accurate.
- (4) For the purposes of [subsection \(3\)](#), the circumstances where the Keeper is entitled to reasonably believe information to be accurate include those where it is provided—
- (a) in connection with an application to which the entry relates, or
 - (b) by the court.

38 Liability of certain other persons

- (1) A person (“P”) is entitled to be compensated in the following circumstances—
- (a) where P suffers loss in consequence of an inaccuracy in an entry in the assignations record then, to the extent that it is not attributable to the Keeper, P is entitled to be compensated for that loss by—
 - (i) the person who made the application for registration which gave rise to the inaccurate entry if that person failed to take reasonable care in making it, or
 - (ii) where the inaccurate entry arises from the attempted correction of an apparent inaccuracy, the person who notified the Keeper of the apparent inaccuracy if that person failed to take reasonable care in doing so,
 - (b) where P suffers loss in consequence of an inaccuracy in information supplied in response to a request under [section 36\(1\)](#), P is entitled to be compensated for that loss by the person who supplied the information if that person failed to take reasonable care in supplying it, or
 - (c) where P suffers loss in consequence of a failure, without reasonable excuse, to comply with a request in accordance with [section 36\(4\)](#), P is entitled to be compensated for that loss by the person whose failure it was.
- (2) But a person has no liability under [subsection \(1\)](#)—
- (a) in so far as P’s loss could have been avoided had P taken measures which it would have been reasonable for P to take,
 - (b) in so far as P’s loss was not reasonably foreseeable, or
 - (c) for non-patrimonial loss.