

SCHEDULE 4

(introduced by section 118)

TRANSITIONAL PROVISIONS

Existing title sheets

- 1 On the designated day an existing title sheet becomes part of the title sheet record.
- 2 An existing title sheet which becomes, under paragraph 1, part of the title sheet record, may be amended by the Keeper so as—
 - (a) to conform with a requirement of, or imposed by virtue of, this Act, or
 - (b) to reflect something permitted by, or by virtue of, this Act.
- 3 An amendment under paragraph 2 may be made on the designated day or at such later date as the Keeper considers appropriate.
- 4 An existing title sheet as respects an interest of ownership becomes under paragraph 1 a title sheet as respects a plot of land; and the Keeper, on or as soon as practicable after the designated day, must create a cadastral unit for that plot.
- 5 An existing title sheet as respects an interest of tenancy becomes under paragraph 1 a lease title sheet.
- 6 Section 12(2) does not apply to a cadastral unit created under paragraph 4.

Common areas: general

- 7 If, by reason of being owned in common, the selfsame area of land is, immediately before the designated day, included in two or more existing title sheets the Keeper may, if the Keeper considers it appropriate, make up a title sheet for that area and create a cadastral unit for it.
- 8 Where a title sheet is created by virtue of paragraph 7—
 - (a) the Keeper is to make such changes to the other title sheets mentioned in that paragraph and to the cadastral map as are consequential upon its being so constituted, and
 - (b) the respective shares of the proprietors of the area of land need only be entered in the title sheet if they were entered in the existing title sheets.

Common areas: developments begun before designated day

- 9 If, by reason of being owned in common, the selfsame area of land (in this paragraph and in paragraph 11 referred to as “area A”) is, immediately before the designated day, included in two or more existing title sheets and on or after that day title sheets (in this paragraph and in paragraph 10 referred to as the “new title sheets”) are to be constituted for plots of land the proprietors of which will (qua proprietors of those plots) be comprised within those who own area A in common, area A may, by reason of being owned in common, be included in the new title sheets.
- 10 Where the respective shares of the proprietors were not entered in the existing title sheets they need not be entered in the new title sheets.
- 11 The Keeper may at any time create a separate title sheet for area A.

Archive record

- 12 The Keeper must include in the archive record—
- (a) all copies of documents upon which the terms of the existing title sheets are founded,
 - (b) all copies of documents which relate to past states of title sheets and title plans, and
 - (c) such other information, in whatever form, as so relates,
- in so far as those copy documents, and as the case may be that other information, is held by the Keeper immediately before the designated day.

Pending applications

- 13 Nothing in this Act, other than provision made by or by virtue of section 35, affects an application under section 4 (applications for registration) of the Land Registration (Scotland) Act 1979 (c.33) (the “1979 Act”) provided that the date of receipt of the application is before the designated day.
- 14 An application by virtue of section 9(1) of the 1979 Act (rectification of the register) falls if it has not been determined by the Keeper as at the designated day.

Claims under the 1979 Act

- 15 Where, immediately before the designated day, a person has an entitlement to claim indemnity under section 12(1) of the 1979 Act (indemnity in respect of loss) but either—
- (a) no such claim has been made, or
 - (b) any such claim as has been made is as yet undetermined,
- nothing in this Act affects the entitlement or claim.
- 16 Nothing in this Act affects any entitlement to reimbursement under subsection (1) of section 13 of the 1979 Act (reimbursement of certain expenditure) or any claim made by virtue of that subsection.

Bijural inaccuracies

- 17 If there is in the register, immediately before the designated day, an inaccuracy which the Keeper has power to rectify under section 9 of the 1979 Act (rectification of the register) then, as from that day—
- (a) any person whose rights in land would have been affected by such rectification has such rights (if any) in the land as that person would have if the power had been exercised, and
 - (b) the register is inaccurate in so far as it does not show those rights as so affected.
- 18 For the purpose of determining whether the Keeper has the power mentioned in paragraphs 17 and 22, the person registered as proprietor of the land is to be presumed to be in possession unless the contrary is shown.
- 19 Where, by virtue of paragraph 17—
- (a) a right is lost, compensation is payable under Part 7 as if warranty had been granted under section 73 in accepting an application by the person in whom the right was vested, or

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

- (b) an encumbrance is revived, compensation is so payable as if such warranty had been granted in respect of an omission of the encumbrance.
- 20 Except that—
- (a) compensation is not so payable in so far as, had the Keeper rectified the inaccuracy before the designated day, either a right to indemnity under section 12 of the 1979 Act (indemnity in respect of loss) was excluded by virtue of subsection (2) of that section or there would, by virtue of subsection (3) of that section, have been no entitlement to such indemnity,
- (b) any compensation so payable is to be reduced to the extent that, had the Keeper rectified the inaccuracy before the designated day, the amount of any indemnity would have been reduced by virtue of section 13(4) of that Act (reduction proportionate to the extent to which a claimant has contributed, by fraudulent or careless act or omission, to loss), and
- (c) in construing Part 7 for the purposes of paragraph 19, paragraphs (b) and (c) of section 78 are to be disregarded.
- 21 Section 77(4) and (5) applies in relation to a payment made by virtue of paragraph 19(a) as that section applies in relation to any other payment under Part 7.
- 22 If there is in the register, immediately before the designated day, an inaccuracy which the Keeper does not have power to rectify under section 9 of the 1979 Act, then on that day it ceases to be an inaccuracy.
- 23 Where, by virtue of paragraph 22, a person suffers loss which, had it been suffered by virtue of paragraph (b) of section 12(1) of the 1979 Act, would (after allowing for the effect of subsections (2) and (3) of that section) have given rise before the designated day to an entitlement under that section, the person is entitled to claim compensation, by virtue of this paragraph, from the Keeper in respect of that loss.
- 24 Sections 94(3) to (6) and 95 apply in respect of a claim by virtue of paragraph 23 as they apply in respect of a claim by virtue of section 94(1), but with the modification that, for paragraph (a) of section 95(1), there is substituted—
- “(a) is, in so far as it is not compensation mentioned in paragraph (b), to be quantified as at the date on which the register became inaccurate.”.

Depiction of tenement etc.

- 25 Section 16(3) does not apply if any of the flats comprised in the flatted building mentioned in that subsection—
- (a) is recorded in the Register of Sasines, or
- (b) is registered by virtue of an application accepted under section 4 of the 1979 Act.