

2004 No. 476

LAND REGISTRATION

The Land Registration (Scotland) Amendment Rules 2004

Made - - - - *3rd November 2004*

Laid before the Scottish Parliament *4th November 2004*

Coming into force - - *28th November 2004*

The Scottish Ministers, in exercise of the powers conferred by section 27(1) of the Land Registration (Scotland) Act 1979(a) and of all other powers enabling them in that behalf, and after consultation with the Lord President of the Court of Session in accordance with that section, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Land Registration (Scotland) Amendment Rules 2004 and shall come into force on 28th November 2004.

(2) In these Rules, the “principal Rules” means the Land Registration (Scotland) Rules 1980(b).

Amendment of the principal Rules

2. The principal Rules are amended in accordance with the following rules.

3. In rule 2 of the principal Rules (interpretation)—

(a) after the definition of “the Act” insert—

“the 2000 Act” means the Abolition of Feudal Tenure etc. (Scotland) Act 2000(c);

“the 2003 Act” means the Title Conditions (Scotland) Act 2003(d);

“application for dual registration” means an application made for—

(a) registration of a constitutive deed under section 4(5) of the 2003 Act;

(b) registration of a notice of preservation under section 50 of the 2003 Act;

(c) registration of a deed creating a positive servitude under section 75(1) of the 2003 Act;

(d) registration of a notice of converted servitude under section 80 of the 2003 Act; “benefited property” means in relation to a title condition, the interest in land to which the right to enforce the title condition is attached;

“burdened property” means in relation to a title condition, the interest in land which is affected by the title condition;”;

(a) 1979 c.33. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1988 (c.46).

(b) S.I. 1980/1413, as amended by S.I. 1982/974, 1988/1143, 1995/248 and 1998/3100.

(c) 2000 asp 5.

(d) 2003 asp 9.

- (b) after the definition of “certificate of title” insert–
 - ““community burden” has the meaning given in section 25 of the 2003 Act;
 - “constitutive deed” means the deed which sets out the terms of a title condition;”;
- (c) after the definition of “debt” insert–
 - ““holder” in relation to a title condition means the person who has right to the title condition;
 - “personal real burden” has the meaning given in section 1(3) of the 2003 Act;”.

4. In rule 4 of the principal Rules (property section)–

- (a) in sub-paragraph (c) for the word “enforceable” substitute “subsisting”;
- (b) after sub-paragraph (c) insert–
 - “(cc) particulars of any subsisting right to a title condition pertaining to the interest by virtue of section 18, 19 or 20 of the 2000 Act or section 4(5), 50, 75 or 80 of the 2003 Act and the identity of the burdened property affected by such title condition;”;
- (c) after paragraph (2) insert–
 - “(3) An entry in the Property Section in respect of particulars of a right to be entered in accordance with paragraph (1)(cc) shall set out the terms of the title condition either–
 - (a) by setting out the terms of the title condition as set out in the constitutive deed in full or by entering a summary of such terms in the Property Section; or
 - (b) by setting out such terms by means of a reference to an entry in the Burdens Section of the same title sheet wherein such terms are set out in full.”.

5. In rule 7 of the principal Rules (burdens section)–

- (a) after paragraph (1)(a) insert–
 - “(aa) the identity of the benefited property or of the holder of a personal real burden in respect of any subsisting real burden or condition affecting the interest by virtue of section 18, 18A, 18B, 18C, 19, 20, 27 or 27A of the 2000 Act or section 4(5), 38, 43, 44, 45, 46, 50, 75 or 80 of the 2003 Act;
 - (ab) any statement which the Keeper is entitled or required to enter on the title sheet by virtue of section 58 of the 2003 Act;”;
- (b) after paragraph (1) insert–
 - “(1A) where particulars of any subsisting right to a title condition are to be entered in the Property Section in accordance with rule 4(3)(b), there shall be entered in the Burdens Section the terms of such title condition as set out in the constitutive deed.”.

6. In rule 9 of the principal Rules (application for registration of interest in land)–

- (a) in paragraph (1) at the beginning insert “Subject to paragraphs (4) and (5),”;
- (b) after paragraph (3) insert–
 - “(4) Where the application for registration is an application for dual registration the application may be made by any person who has right to the land which in terms of the application is to become a burdened or benefited property.
 - (5) Where an enactment permits an application for registration to be made by a person that person may make such application.
 - (6) Paragraph (1) shall apply to an application made by virtue of paragraphs (4) or (5) for the purposes of determining on which form the application shall be made.”.

7. In Schedule A to the principal Rules, for Forms 1, 2, 3 and 6 substitute the Forms numbered 1, 2, 3 and 6 in the Schedule to these Rules.

St Andrew's House,
Edinburgh
3rd November 2004

HUGH HENRY
Authorised to sign by the Scottish Ministers

SCHEDULE

Rule 7

LIST OF FORMS BEING SUBSTITUTED IN PLACE OF THE FORMS NUMBERED 1, 2, 3 AND 6 IN THE PRINCIPAL RULES

| <i>Form</i> | <i>Purpose</i> | <i>Reference to Act</i> |
|-------------|--|-------------------------|
| 1 | Application for First Registration | section 4 |
| 2 | Application for Registration of a Dealing (other than the transfer of part of a registered interest in land) | section 4 |
| 3 | Application for Registration of a Transfer of part of a Registered Interest in Land | section 4 |
| 6 | Land Certificate | section 5(2) |

REGISTERS OF SCOTLAND EXECUTIVE AGENCY
(Land Registration (Scotland) Rules 1980 Rule 9(1)(a))
APPLICATION FOR FIRST REGISTRATION

FORM 1
VERSION 28/11/2004

Please complete in BLACK TYPE
No covering letter is required

1. Presenting Agent. Name and Address (see Note 1)

Keeper of the Registers of Scotland
Meadowbank House
153 London Road
Edinburgh EH8 7AU
Telephone: 0131 659 6111

Part A

2.FAS No. (see Note 2)

3. Agent's Tel No.(include STD Code)

4. Agent's Reference

5. Name of Deed in respect of which registration is required

6. County (see Note 3)

Mark X in box if more than one county

X

7. Subjects (see Note 4)

Street No. Street Name

Town Post code

Other

8. Name and Address of Applicant (see Note 5)

1. Surname Forename(s)

Address

2. Surname Forename(s)

Address

and/ or company/ firm or council, etc. Mark X in box if more than 2 applicants

Address

9. Granter/Last recorded title holder (see Note 6)

1. Surname Forename(s)

2. Surname Forename(s)

and/ or company/ firm or council, etc. Mark X in box if more than 2 granters

10. Consideration (see Note 7) Value (see Note 8) Fee (see Note 9) Method of Payment Date of Entry

11. If a Form 10 Report has been issued in connection with this Application, please quote Report No.

12. I/ We apply for registration in respect of Deed(s) No in the Inventory of Writs (Form 4). I/ We certify that the information supplied in this application is correct to the best of my/our knowledge and belief.

FOR OFFICIAL USE

Signature

Date

Notes 1-9 referred to are contained in Notes and Directions for completion of Applications for First Registration

PART B

Delete **YES** or **NO** as appropriate

N.B. If more space is required for any section of this form, a separate sheet, or separate sheets, may be added.

| | | |
|--|---|--|
| 1. | Do the deeds submitted in support of this application include a plan illustrating the extent of the subjects to be registered? If YES , please specify the deed and its Form 4 Inventory number : If NO , have you submitted a deed containing a full bounding description with measurements? If YES , please specify the deed and its Form 4 Inventory number : | YES/NO YES/NO |
| <p>N.B. If the answer to both the above questions is NO then, unless the property is part of a tenement or flatted building, you must submit a plan of the subjects properly drawn to a stated scale and showing sufficient surrounding features to enable it to be located on the Ordnance Map. The plan should bear a docquet, signed by the person signing the Application Form, to the effect that it is a plan of the subjects sought to be registered under the attached application.</p> | | |
| <hr/> | | |
| 2. | Is a Form P16 Report issued by the Keeper confirming that the boundaries of the subjects coincide with the Ordnance Map being submitted in support of this Application? If NO , does the legal extent depicted in the plans or descriptions in the deeds submitted in support of the Application cohere with the occupational extent? If NO , please advise:- (a) the approximate age and nature of the occupational boundaries, or (b) whether, if the extent of the subjects as defined in the deeds is larger than the occupational extent, the applicant is prepared to accept the occupational extent as viewed, or (c) whether, if the extent of the subjects as defined in the deeds is smaller than the occupational extent, any remedial action has been taken. | YES/NO YES/NO YES/NO YES/NO |
| <hr/> | | |
| 3. | Is there any person in possession or occupation of the subjects or any part of them adversely to the interest of the applicant? If YES , please give details: | YES/NO |
| <hr/> | | |
| 4. | If the subjects were acquired by the applicant under any statutory provision, does the statutory provision restrict the applicant's power of disposal of the subjects? If YES , please indicate the statute: | YES/NO |
| <hr/> | | |
| 5. | (a) Are there any charges affecting the subjects or any part of them, except as stated in the Schedule of Heritable Securities etc. on page 4 of this application? If YES , please give details: (b) Apart from overriding interests are there any burdens affecting the subjects or any part of them, except as stated in the Schedule of Burdens on page 4 of this application? If YES , please give details: | YES/NO YES/NO |

- (c) Are there any overriding interests affecting the subjects or any part of them which you wish noted on the Title Sheet?
If **YES**, please give details: **YES/NO**
- (d) Are there any recurrent monetary payments (e.g. leasehold casualties) exigible from the subjects or any part of them?
If **YES**, please give details: **YES/NO**

-
6. Where any party to the deed inducing registration is a company registered under the Companies Acts
Has a receiver or liquidator been appointed? **YES/NO**
If **YES**, please give details:
- If **NO**, has any resolution been passed or court order made for the winding up of the company or petition presented for its liquidation? **YES/NO**
If **YES**, please give details:

-
7. Where any party to the deed inducing registration is a company registered under the Companies Acts can you confirm
- (a) that it is not a charity as defined in section 112 of the Companies Act 1989 and **YES/NO**
- (b) that the transaction to which the deed gives effect is not one to which section 322A of the Companies Act 1985 (as inserted by section 109 of the Companies Act 1989) applies? **YES/NO**

Where the answer to either part of the question is **NO**, please give details:

-
8. Where any party to the deed inducing registration is a corporate body other than a company registered under the Companies Acts
- (a) Is it acting *intra vires* ? **YES/NO**
If **NO**, please give details:
- (b) Has any arrangement been put in hand for the dissolution of any such corporate body? **YES/NO**
If **YES**, please give details:

-
9. Are *all* the necessary consents, renunciations or affidavits in terms of section 6 of the Matrimonial Homes (Family Protection)(Scotland) Act 1981 being submitted in connection with this application? **YES/NO**

N.B. If sufficient evidence to satisfy the Keeper that there are no subsisting occupancy rights in the subjects of this application is not submitted with the application then the statement by the Keeper in terms of rule 5 (j) of the Land Registration (Scotland) Rules 1980 will not be inserted in the Title Sheet or will be qualified as appropriate without further enquiry by the Keeper.

10. Where the deed inducing registration is in implement of the exercise of a power of sale under a heritable security
- Have the statutory procedures necessary for the proper exercise of such power been complied with? **YES/NO**
-
11. Where the deed inducing registration is pursuant on a Compulsory Purchase Order
- Have the necessary statutory procedures been complied with? **YES/NO**
-
12. Is any party to the deed inducing registration subject to any legal incapacity or disability?
If **YES**, please give details: **YES/NO**
-
13. Are the deeds and documents detailed in the Inventory (Form 4) all the deeds and documents relevant to the title?
If **NO**, please give details: **YES/NO**
-
14. Are there any facts and circumstances material to the right or title of the applicant which have not already been disclosed in this application or its accompanying documents?
If **YES**, please give details: **YES/NO**
-

SCHEDULE OF HERITABLE SECURITIES ETC.

N.B. New Charges granted by the applicant should not be included

SCHEDULE OF BURDENS

REGISTERS OF SCOTLAND EXECUTIVE AGENCY
(Land Registration (Scotland) Rules 1980 Rule 9(1)(b))
**APPLICATION FOR REGISTRATION OF
A DEALING**

FORM 2
VERSION 28/11/2004

Please complete in **BLACK TYPE**
No covering letter is required

1. Presenting Agent. Name and Address (see Note 1)

Keeper of the Registers of Scotland
Meadowbank House
153 London Road
Edinburgh EH8 7AU
Telephone: 0131 659 6111

Part A

2. FAS No. (see Note 2)

3. Agent's Tel No. (include STD Code)

4. Agent's Reference

5. Name of Deed in respect of which registration is required (see Note 3)

6. County (see Note 4)

Mark X in box if more than one county

7. Title No(s) of registered interest(s) affected by this application (see Note 5)

Mark X in box if more than 3 Title Numbers

8. Subjects (see Note 6)

Street No. Street Name

Town Post code

Other

9. Name and Address of Applicant (see Note 7)

1. Surname

Forename(s)

Address

2. Surname

Forename(s)

Address

and/ or company/ firm or council, etc.

Mark X in box if more than 2 applicants

Address

10. Consideration - or amount of loan (see Note 8)

Value - or amount of loan (see Note 9)

Fee (see Note 10)

A/B/C

Method of Payment

Date of Entry

11. I/ We apply for registration in respect of Deed(s) No _____ in the Inventory of Writs (Form 4). I/ We certify that the information supplied in this application is correct to the best of my/our knowledge and belief.

FOR OFFICIAL USE

Signature

Date

Notes 1-10 referred to are contained in Notes and Directions for completion of Applications for Registration of a Dealing

PART B

Delete **YES** or **NO** as appropriate

N.B. If more space is required for any section of this form, a separate sheet, or separate sheets, may be added.

1. Where the dealing in respect of which registration is sought transfers the interest specified in the Property Section of the Title Sheet
- (a) Is there any person in possession or occupation of the subjects or any part of them adversely to the interest of the applicant? **YES/NO**
If **YES**, please give details:
- (b) If the subjects were acquired by the applicant under any statutory provision, does the statutory provision restrict the applicant's power of disposal of the subjects? **YES/NO**
If **YES**, please indicate the statute:
- (c) Apart from overriding interests are there any burdens affecting the subjects or any part of them, except as already disclosed in the Land Certificate and in the documents produced with this application? **YES/NO**
If **YES**, please give details:
- (d) Are there any overriding interests affecting the subjects or any part of them which you wish noted on the Title Sheet? **YES/NO**
If **YES**, please give details:
- (e) Are there any recurrent monetary payments (e.g. leasehold casualties) exigible from the subjects or any part of them? **YES/NO**
If **YES**, please give details:
-

2. Where any party to the dealing is a company registered under the Companies Acts
- Has a receiver or liquidator been appointed? **YES/NO**
If **YES**, please give details:
- If **NO**, has any resolution been passed or court order made for the winding up of the company or petition presented for its liquidation? **YES/NO**
If **YES**, please give details:
-

3. Where any party to the dealing is a company registered under the Companies Acts can you confirm
- (a) that it is not a charity as defined in section 112 of the Companies Act 1989 and **YES/NO**
- (b) that the transaction to which the deed gives effect is not one to which section 322A of the Companies Act 1985 (as inserted by section 109 of the Companies Act 1989) applies? **YES/NO**
- Where the answer to either part of the question is **NO**, please give details:
-

4. Where any party to the dealing is a corporate body other than a company registered under the Companies Acts
- (a) Is it acting *intra vires*? YES/NO
If **NO**, please give details:
- (b) Has any arrangement been put in hand for the dissolution of any such corporate body? YES/NO
If **YES**, please give details:
-
5. Are *all* the necessary consents, renunciations or affidavits in terms of section 6 of the Matrimonial Homes (Family Protection)(Scotland) Act 1981 being submitted in connection with this application? YES/NO
- N.B.** If sufficient evidence to satisfy the Keeper that there are no subsisting occupancy rights in the subjects of this application is not submitted with the application then the statement by the Keeper in terms of rule 5 (j) of the Land Registration (Scotland) Rules 1980 will not be inserted in the Title Sheet or will be qualified as appropriate without further enquiry by the Keeper.
-
6. Where the dealing is in implement of the exercise of a power of sale under a heritable security
- Have the statutory procedures necessary for the proper exercise of such power been complied with? YES/NO
-
7. Where the dealing is pursuant on a Compulsory Purchase Order
- Have the necessary statutory procedures been complied with? YES/NO
-
8. In all cases
- (a) Is any party to the dealing subject to any legal incapacity or disability not already disclosed on the Land Certificate? YES/NO
If **YES**, please give details:
- (b) Are the deeds and documents detailed in the Inventory (Form 4) all the deeds and documents relevant to the application? YES/NO
If **NO**, please give details:
- (c) Are there any facts and circumstances material to the right or title of the applicant which have not already been disclosed in this application or its accompanying documents? YES/NO
If **YES**, please give details:
-

REGISTERS OF SCOTLAND EXECUTIVE AGENCY
(Land Registration (Scotland) Rules 1980 Rule 9(1)(c))
**APPLICATION FOR REGISTRATION OF
A TRANSFER OF PART**

**FORM 3
VERSION 28/11/2004**

*Please complete in BLACK TYPE
No covering letter is required*

1. Presenting Agent. Name and Address (see Note 1)

Keeper of the Registers of Scotland
Meadowbank House
153 London Road
Edinburgh EH8 7AU
Telephone: 0131 659 6111

Part A

2. FAS No. (see Note 2)

3. Agent's Tel No. (include STD Code)

4. Agent's Reference

5. Name of Deed in respect of which registration is required

6. County (see Note 3)

Mark X in box if more than one county

7. Title No(s) of registered interest(s) affected by this application (see Note 4)

Mark X in box if more than 3 Title Numbers

8. Subjects (see Note 5)

Street No. Plot No. Street Name

Town Post code

Other

9. Name and Address of Applicant (see Note 6)

1. Surname

Forename(s)

Address

2. Surname

Forename(s)

Address

and/ or company/ firm or council, etc.

Mark X in box if more than 2 applicants

Address

10. Consideration (see Note 7)

Value (see Note 8)

Fee (see Note 9)

A

Method of Payment

Date of Entry

11. I/ We apply for registration in respect of Deed(s) No. _____ in the Inventory of Writs (Form 4). I/ We certify that the information supplied in this application is correct to the best of my/our knowledge and belief.

FOR OFFICIAL USE

Signature

Date

Notes 1-9 referred to are contained in Notes and Directions for completion of Applications for Registration of a Transfer of Part.

PART B

Delete **YES** or **NO** as appropriate

N.B. If more space is required for any section of this form, a separate sheet, or separate sheets, may be added.

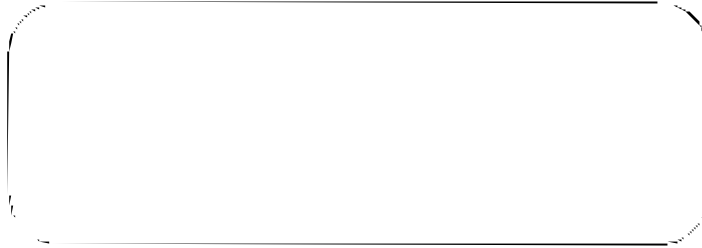
| | | |
|-------|--|---------------|
| 1. | Is there any person in possession or occupation of the subjects or any part of them adversely to the interest of the applicant? If YES , please give details: | YES/NO |
| <hr/> | | |
| 2. | If the subjects were acquired by the applicant under any statutory provision, does the statutory provision restrict the applicant's power of disposal of the subjects? If YES , please indicate the statute: | YES/NO |
| <hr/> | | |
| 3. | (a) Apart from overriding interests are there any burdens affecting the subjects or any part of them, except as already disclosed in the Land Certificate and in the documents produced with this application? If YES , please give details: | YES/NO |
| | (b) Are there any overriding interests affecting the subjects or any part of them which you wish noted on the Title Sheet? If YES , please give details: | YES/NO |
| | (c) Are there any recurrent monetary payments (e.g. leasehold casualties) exigible from the subjects or any part of them? If YES , please give details: | YES/NO |
| <hr/> | | |
| 4. | Where any party to the dealing is a company registered under the Companies Acts Has a receiver or liquidator been appointed? If YES , please give details: | YES/NO |
| | If NO , has any resolution been passed or court order made for the winding up of the company or petition presented for its liquidation? If YES , please give details: | YES/NO |
| <hr/> | | |
| 5. | Where any party to the dealing is a company registered under the Companies Acts can you confirm | |
| | (a) that it is not a charity as defined in section 112 of the Companies Act 1989 and | YES/NO |
| | (b) that the transaction to which the deed gives effect is not one to which section 322A of the Companies Act 1985 (as inserted by section 109 of the Companies Act 1989) applies? | YES/NO |
| | Where the answer to either part of the question is NO , please give details: | |

| | | |
|-----|---|---------------|
| 6. | Where any party to the dealing is a corporate body other than a company registered under the Companies Acts | |
| (a) | Is it acting <i>intra vires</i> ? If NO , please give details: | YES/NO |
| (b) | Has any arrangement been put in hand for the dissolution of any such corporate body? If YES , please give details: | YES/NO |
| 7. | Are <i>all</i> the necessary consents, renunciations or affidavits in terms of section 6 of the Matrimonial Homes (Family Protection)(Scotland) Act 1981 being submitted in connection with this application? | YES/NO |
| | N.B. If sufficient evidence to satisfy the Keeper that there are no subsisting occupancy rights in the subjects of this application is not submitted with the application then the statement by the Keeper in terms of rule 5(j) of the Land Registration (Scotland) Rules 1980 will not be inserted in the Title Sheet or will be qualified as appropriate without further enquiry by the Keeper. | |
| 8. | Where the dealing is in implement of the exercise of a power of sale under a heritable security | |
| | Have the statutory procedures necessary for the proper exercise of such power been complied with? | YES/NO |
| 9. | Where the dealing is pursuant on a Compulsory Purchase Order Have the necessary statutory procedures been complied with? | YES/NO |
| 10. | Is any party to the dealing subject to any legal incapacity or disability not already disclosed on the Land Certificate? If YES , please give details: | YES/NO |
| 11. | Are the boundaries of the subjects defined on the ground by fencing or other type of enclosure? | YES/NO |
| 12. | Are the deeds and documents detailed in the Inventory (Form 4) all the deeds and documents relevant to the application? If NO , please give details: | YES/NO |
| 13. | Are there any facts and circumstances material to the right or title of the applicant which have not already been disclosed in this application or its accompanying documents? If YES , please give details: | YES/NO |

(LAND REGISTRATION (SCOTLAND) RULES 1980, RULE 14)

LAND REGISTER OF SCOTLAND
LAND CERTIFICATE

VERSION 28/11/2004



**THIS LAND CERTIFICATE, ISSUED PURSUANT TO SECTION 5(2)
OF THE LAND REGISTRATION (SCOTLAND) ACT 1979,
IS A COPY OF THE TITLE SHEET RELATING TO THE ABOVE SUBJECTS.**

STATEMENT OF INDEMNITY

Subject to any specific qualifications entered in the Title Sheet of which this Land Certificate is a copy, a person who suffers loss as a result of the events specified in section 12(1) of the above Act shall be entitled to be indemnified in respect of that loss by the Keeper of the Registers of Scotland in terms of that Act.

ATTENTION IS DRAWN TO THE NOTICE AND GENERAL INFORMATION OVERLEAF.

NOTICE

This Land Certificate was made to agree with the Title Sheet of which it is a copy on the most recent date entered below

| | | | | |
|--|--|--|--|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

This Land Certificate may be made to agree with the Title Sheet at any time on payment of the appropriate fee. Application should be made on Form 8.

GENERAL INFORMATION IS CONTAINED ON THE INSIDE BACK COVER

GENERAL INFORMATION

1. OVERRIDING INTEREST.

A registered interest in land is in terms of sections 3(1) of the Land Registration (Scotland) Act 1979 subject to overriding interests defined in section 28 of that Act (hereinafter referred to as "the 1979 Act") as amended by the Matrimonial Homes (Family Protection) (Scotland) Act 1981, the Telecommunications Act 1984, the Electricity Act 1989, the Coal Industry Act 1994 and the Title Conditions (Scotland) Act 2003 as:

in relation to any interest in land, the right or interest over it of

- (a) the lessee under a lease which is not a long lease;
- (b) the lessee under a long lease who, prior to the commencement of the 1979 Act, has acquired a real right to the subjects of the lease by virtue of possession of them;
- (c) a crofter or cottar within the meaning of sections 3 or 28(4) respectively of the Crofters (Scotland) Act 1955, or a landholder or statutory small tenant within the meaning of section 2(2) or 32(1) respectively of the Small Landholders (Scotland) Act 1911;
- (d) the proprietor of the dominant tenement in any servitude which was not created by registration in accordance with section 75(1) of the Title Conditions (Scotland) Act 2003;
- (e) the Crown or any Government or other public department, or any public or local authority, under any enactment or rule of law, other than an enactment or rule of law authorising or requiring the recording of a deed in the Register of Sasines or registration in order to complete the right of interest;
- (ee) the operator having a right conferred in accordance with paragraph 2, 3 or 5 of schedule 2 to the Telecommunications Act 1984 (agreements for execution of works, obstruction of access, etc.);
- (ef) a licence holder within the meaning of Part 1 of the Electricity Act 1989 having such a wayleave as is mentioned in paragraph 6 of Schedule 4 to that Act (wayleaves for electric lines), whether granted under that paragraph or by agreement between the parties;
- (eg) a licence holder within the meaning of Part 1 of the Electricity Act 1989 who is authorised by virtue of paragraph 1 of Schedule 5 to that Act to abstract, divert and use water for a generating station wholly or mainly driven by water;
- (eh) insofar as it is an interest vesting by virtue of section 7(3) of the Coal Industry Act 1994, the Coal Authority;

- (f) the holder of a floating charge whether or not the charge has attached to the interest;
- (g) a member of the public in respect of any public right of way or in respect of any right held inalienably by the Crown in trust for the public;
- (gg) the non-entitled spouse within the meaning of section 6 of the Matrimonial Homes (Family Protection)(Scotland) Act 1981;
- (h) any person, being a right which has been made real, otherwise than by the recording of a deed in the Register of Sasines or by registration; or
- (i) any other person under any rule of law relating to common interest or joint or common property, not being a right or interest constituting a real right, burden or condition entered in the title sheet of the interest in land under section 6(1)(e) of the 1979 Act or having effect by virtue of a deed recorded in the Register of Sasines, but does not include any subsisting burden or condition enforceable against the interest in land and entered in its title sheet under section 6 (1) of the 1979 Act.

2. THE USE OF ARROWS ON TITLE PLANS

- (a) Where a deed states the line of a boundary in relation to a physical object, e.g. the centre line, that line is indicated on the Title Plan, either by means of a black arrow or verbally.
- (b) An arrow across the object indicates that the boundary is stated to be the centre line.
- (c) An arrow pointing to the object indicates that the boundary is stated to be the face of the object to which the arrow points.
- (d) The physical object presently shown on the Plan may not be the one referred to in the deed. Indemnity is therefore excluded in respect of information as to the line of the boundary.

3. Lineal measurements shown in figures on title plans are subject to the qualification "or thereby". Indemnity is excluded in respect of such measurements.

4. SUBMISSION OF LAND CERTIFICATE WITH SUBSEQUENT APPLICATIONS FOR REGISTRATION

In terms of Rule 9 (3), this Land Certificate should be submitted to the Keeper of the Registers of Scotland with any application for registration.

5. CAUTION.

No unauthorised alteration to this Land Certificate should be made.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Land Registration (Scotland) Rules 1980 (“the principal rules”) in consequence of the abolition of the feudal system and changes made to section 6 of the Land Registration (Scotland) Act 1979 (c33) by section 112 of and paragraph 7 of Schedule 14 to the Title Conditions (Scotland) Act 2003 (asp 9) (“the 2003 Act”).

Rule 4 amends rule 4 of the principal rules to provide that where a subsisting right to a title condition pertains to the interest in land by virtue of sections 18, 19 or 20 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) or by virtue of sections 4(5), 50, 75 or 80 of the 2003 Act, the Keeper shall enter particulars of the subsisting right and identify the burdened property in the Property Section of the title sheet for that interest. Particulars may be entered by entering the terms of the title condition, or a summary thereof, in the Property Section of the title sheet for a property or by making a reference to an entry in the Burdens Section of the same title sheet which sets out the terms of the title condition.

Rule 5 amends rule 7 of the principal rules to provide that where an interest in land is affected by a subsisting real burden or condition by virtue of sections 18, 18A, 18B, 18C, 19, 20, 27 or 27A of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) or by virtue of sections 4(5), 38, 43, 44, 45, 46, 50, 75 or 80 of the 2003 Act, the Keeper shall enter particulars of the subsisting right and identify the benefited property, or where the burden is a personal real burden the holder of the burden, in the Burdens Section of the title sheet for that interest.

Rule 6 amends rule 9 to permit an application for dual registration to be made by a person who has right to the land which is to become either the burdened property or the benefited property. A definition of an application for dual registration is inserted into the principal rules by rule 3.

Rule 7 substitutes new Forms 1, 2, 3 and 6 for the current Forms.

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