
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications to the following enactments in consequence of the [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#) (“the 2000 Act”).

The Land Registers (Scotland) Act 1868

Section 5 of the 2000 Act introduces a requirement for applications to be made for recording of deeds in the Register of Sasines and removes the requirement for a warrant for registration. Section 6 of the Land Registers (Scotland) Act 1868 provides for the manner of registration of deeds which are transmitted to the Keeper by post. Section 6 will, on the appointed day for the purposes of the 2000 Act (28th November 2004), be amended by paragraph 7 of schedule 12 to the 2000 Act to remove references to warrants for registration. Paragraph 1 of the Schedule to this Order modifies section 6 further to introduce references to an application for registration in consequence of section 5 of the 2000 Act.

The Titles to Land Consolidation (Scotland) Act 1868

Paragraph 8 of schedule 12 to the 2000 Act makes consequential changes to section 142 of the Titles to Land Consolidation (Scotland) Act 1868 to remove the requirement for a warrant for registration. The deed will, when section 5 of the 2000 Act comes into force on the appointed day (28th November 2004), no longer require a warrant of registration and there is no clear requirement for a separate application. Paragraph 2 of the Schedule to this Order introduces references to an application for registration into section 142.

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

New provision is made for service of heirs by section 68 of the 2000 Act. This was to allow the full repeal of sections 27 to 50 of the Titles to Land Consolidation Act 1868. The latter sections were repealed by section 34(2) of the Succession (Scotland) Act 1964 (c. 41) but by section 37(1)(d) of that Act continued to regulate pre-1964 deaths. Sections 27 to 50 were then revived by section 6 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 to enable the heir of provision of the last surviving trustee to establish his title to act as trustee. With the repeal of sections 27 to 50, section 6 of the 1980 Act no longer serves a purpose and is repealed.