

2004 No. 535

FEUDAL TENURE

**The Abolition of Feudal Tenure etc. (Scotland) Act 2000
(Consequential Provisions) Order 2004**

Made - - - - - *2nd December 2004*

Coming into force - - - *3rd December 2004*

The Scottish Ministers, in exercise of the powers conferred by section 76(3) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000(a) and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 74(2) of that Act, been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (Consequential Provisions) Order 2004 and shall come into force on 3rd December 2004.

Amendment of enactments

2. The amendments specified in the Schedule to this Order shall have effect.

HUGH HENRY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd December 2004

SCHEDULE

Article 2

AMENDMENT OF PUBLIC GENERAL ACTS

Land Registers (Scotland) Act 1868

1. In section 6 (provision for writs transmitted by post to general register of sasines) of the Land Registers (Scotland) Act 1868(a)–

- (a) for “any writ shall be transmitted by post for registration in the general register of sasines” substitute “an application for registration of a writ in the general register of sasines is transmitted by post”;
- (b) for “writ”, where it occurs for the second time, substitute “application”;
- (c) after “and”, where it first occurs, insert “cause the writ”;
- (d) for “writs”, where it occurs for the second time, substitute “such applications”;
- (e) omit “thereof”; and
- (f) after “minute book” insert “for the writs in respect of which such applications are made”.

Titles to Land Consolidation (Scotland) Act 1868

2. In section 142 (recording of conveyances in the register of sasines authorized) of the Titles to Land Consolidation (Scotland) Act 1868(b)–

- (a) for “same”, where it first occurs, substitute “application for registration of such conveyance or deed is made and on such application the conveyance or deed”;
- (b) after “more” insert “applications for registration of”;
- (c) omit the word “thereof”; and
- (d) after “minute book”, where it occurs for the second time, insert “for the conveyances or deeds in respect of which such applications are made”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

3. Section 6 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980(c) is repealed.

(a) 1868 c.64.
(b) 1868 c.101.
(c) 1980 c.55.

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.

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