
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 41 (C. 4)

LAND REGISTRATION

The Land Registration etc. (Scotland) Act 2012
(Commencement No. 2 and Transitional Provisions) Order 2014

Made - - - - 19th February 2014
*Laid before the Scottish
Parliament* - - - - 21st February 2014
Coming into force - - 22nd March 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 116(1), 117(1) and 123(3) of the Land Registration etc. (Scotland) Act 2012(1).

Citation, commencement and interpretation

1. (1) This Order may be cited as the Land Registration etc. (Scotland) Act 2012 (Commencement No. 2 and Transitional Provisions) Order 2014 and comes into force on 22nd March 2014.

(2) In this Order—

“the Act” means the Land Registration etc. (Scotland) Act 2012;

“the 1995 Act” means the Requirements of Writing (Scotland) Act 1995(2);

“ARTL System” has the meaning given by section 12 of the 1995 Act(3); and

“electronic communication(4)” has the meaning given by section 12 of the 1995 Act.

(1) 2012 asp 5 (“the 2012 Act”).

(2) 1995 c.7, amended by the Petroleum Act 1998 (c.17), Schedule 5(I), paragraph 1, the Scotland Act 1998 (c.46), Schedule 8, paragraph 31, S.I. 1999/1820, Schedule 2(I), paragraph 118, the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), schedule 12(1), paragraph 58, S.I. 2000/2040, Schedule 1(I), paragraph 17, the Housing (Scotland) Act 2001 (asp 10), schedule 10, paragraph 22, S.S.I. 2001/128, Schedule 4, paragraphs 4 and 5, the Title Conditions (Scotland) Act 2003 (asp 9), schedule 15, paragraph 1, S.S.I. 2006/491, article 3, the Companies Act 2006 (c.46), Schedule 16, paragraph 1, the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), sections 48(1) and 222(2) and (3), S.I. 2008/948, Schedule 1(2), paragraph 199, S.I. 2009/1941, Schedule 1, paragraph 151 and the 2012 Act, sections 96, 97 and 98 and schedule 3.

(3) “ARTL system” was inserted into the 1995 Act by article 3(7)(a)(i) of S.S.I. 2006/491 and is prospectively repealed by paragraph 19(a) of schedule 3 to the 2012 Act.

(4) “electronic communication” was inserted into the 1995 Act by article 3(7)(a)(iv) of S.S.I. 2006/491 and applies the meaning given within section 15 of the Electronic Communications Act 2000 (c.7), relevantly amended by the Communications Act 2003 (c.21), Schedule 15, paragraph 158. The definition is prospectively repealed by paragraph 19(a) of schedule 3 to the 2012 Act.

Day appointed

2. (1) Subject to paragraph (2)—

- (a) the day appointed for the coming into force of the provisions of the Act specified in column 1 of Part 1 of the Schedule (the subject matter of which is specified in column 2 of that Part) is 22nd March 2014;
- (b) the day appointed for the coming into force of the provisions of the Act specified in column 1 of Part 2 of the Schedule (the subject matter of which is specified in column 2 of that Part) is 11th May 2014; and
- (c) the day appointed for the coming into force of the provisions of the Act specified in column 1 of Part 3 of the Schedule (the subject matter of which is specified in column 2 of that Part) is the designated day⁽⁵⁾.

(2) Where a purpose is specified in column 3 of the Schedule in relation to any provision, that provision comes into force in accordance with paragraph (1)(a), (b) or (c) for that purpose only.

Transitional provision – Automated Registration of Title to Land

3. (1) Paragraphs (2) to (4) have effect for the period beginning on 11th May 2014 and ending with the day before the designated day.

(2) Insofar as the provisions of the 1995 Act come into force by virtue of article 2(1)(b) they do not apply to documents created as an electronic communication within the ARTL system.

(3) Sections 1(2A) and (2B), 2A, 2C, 3A and 6A of the 1995 Act⁽⁶⁾ apply only to documents created as an electronic communication within the ARTL system.

(4) Section 12 of the 1995 Act (interpretation)⁽⁷⁾ applies as if it contained a definition of “traditional document” meaning a document written on paper, parchment or some similar tangible surface.

Transitional provision – special cases of subscription and signing

4. (1) For the period beginning on 11th May 2014 and ending with the day before the designated day, section 7 of and Schedule 2 to the 1995 Act (subscription and signing: special cases) apply to an electronic document as if “signed” and “subscribed” means “authenticated”; and “sign”, “signs”, “signature”, “signing” and “subscription” are to be construed accordingly.

(2) In this article “electronic document” has the meaning given by section 9A of the 1995 Act (subject to article 3(2) which has the effect of excluding documents created as an electronic communication within the ARTL system).

St Andrew’s House, Edinburgh
19th February 2014

FERGUS EWING
Authorised to sign by the Scottish Ministers

(5) The designated day is designated by the Scottish Ministers by order under section 122 of the 2012 Act.

(6) Sections 1(2A) and (2B), 2A, 2C and 3A were inserted by article 3 of S.S.I. 2006/491 and section 6A was inserted by section 222(3) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

(7) Amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 31, S.I. 1999/1820, Schedule 2(I), paragraph 118, S.I. 2000/2040, Schedule 1(I), paragraph 17, S.S.I. 2006/491, article 3, S.I. 2009/1941, Schedule 1, paragraph 151 and the 2012 Act, schedule 3, paragraph 19.

SCHEDULE

Article 2

PART 1

Provisions coming into force on 22nd March 2014

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 97	Electronic documents	Only for the purpose of making regulations
Section 99	Automated registration	
Section 100	Power to enable electronic registration	

PART 2

Provisions coming into force on 11th May 2014

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 96(1)	Where requirement for writing satisfied by electronic document	For the purpose of the amendments in section 96 commenced by this Part
Section 96(2)(a)(ii) and (iii), (b)(ii) and (iii), (3) and (4)	Where requirement for writing satisfied by electronic document	For all purposes, except for the purposes of any will, testamentary trust disposition and settlement or codicil ⁽⁸⁾
Section 97	Electronic documents	Insofar as not already in force, for all purposes except for the purpose of— (a) any will, testamentary trust disposition and settlement or codicil; (b) inserting section 9G(6) into the 1995 Act
Section 98 and schedule 3, paragraph 1	Amendment of Requirements of Writing (Scotland) Act 1995	For the purpose of the amendments in schedule 3 commenced by this Part
Schedule 3, paragraphs 3, 4, 6, 8, 9, 10, 11(b) to (g), 18, 19(a)(ii), (vii) and (b), 20 to 22 and 27	Amendment of Requirements of Writing (Scotland) Act 1995	For all purposes, except for the purposes of any will, testamentary trust disposition and settlement or codicil

(8) Section 1(2)(c) of the Requirements of Writing (Scotland) Act 1995 (c.7). Section 1(2) is amended by section 96(2)(a) of the 2012 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 3

Provisions coming into force on the designated day

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provision of the Act</i>	<i>Subject matter</i>	<i>Purpose</i>
Section 96(1)	Where requirement for writing satisfied by electronic document	For the purpose of the amendments in section 96 commenced by this Part
Section 96(2)(a)(i) and (iv), (b) (i) and (c)	Where requirement for writing satisfied by electronic document	For all purposes, except for the purposes of any will, testamentary trust disposition and settlement or codicil
Section 98 and schedule 3, paragraph 1	Amendment of Requirements of Writing (Scotland) Act 1995	For the purpose of the amendments in section 98 and schedule 3 commenced by this Part
Schedule 3, paragraphs 2, 5, 7, 11(a), 12 to 17, 19(a)(i), (iii) to (vi), (viii) and (ix) and 23 to 26	Amendment of Requirements of Writing (Scotland) Act 1995	For all purposes, except for the purposes of any will, testamentary trust disposition and settlement or codicil

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to bringing into force Part 10 of, and schedule 3 to, the Land Registration etc. (Scotland) Act 2012 (“the 2012 Act”) on electronic documents, electronic conveyancing and electronic registration. Schedule 3 makes consequential amendments to the Requirements of Writing (Scotland) Act 1995 (“the 1995 Act”) in relation to bringing electronic documents into operation.

Article 2(1)(a) and Part 1 of the Schedule bring into force, on 22nd March 2014 for the limited purpose of making regulations, section 97 of the 2012 Act on the requirements for electronic documents for contracts, obligations, trusts and conveyances (including in relation to real rights in land) to be treated as valid and authenticated under the 1995 Act. Sections 99 and 100 of the 2012 Act on automated registration and the power to enable electronic registration are also commenced.

Article 2(1)(b) and Part 2 of the Schedule bring into force, on 11th May 2014, section 97 and parts of sections 96 and 98 of, and schedule 3 to, the 2012 Act except for the purposes of any will, testamentary disposition and settlement or codicil and inserting section 9G(6) into the 1995 Act. From that date, electronic documents by virtue of the provisions under the 2012 Act can satisfy those requirements of writing.

Article 2(1)(c) and Part 3 of the Schedule appoint the “designated day” under section 122 of the 2012 Act as the day for the coming into force of Part 10 of the 2012 Act for all other purposes

except for the purposes of any will, testamentary disposition and settlement or codicil and inserting section 9G(6) into the 1995 Act.

The transitional provisions in article 3 maintain the Automated Registration of Title to Land (ARTL) system under existing provision and directions until the Scottish Ministers replace that system on the designated day under section 99 of the 2012 Act. Article 3(2) and (3) provides for alternative classes of “electronic document” under the 1995 Act for the transitional period from 11th May 2014 to the designated day, to cover both electronic documents within the ARTL system and electronic documents under the provision added to the 1995 Act by the 2012 Act respectively. For that period article 3(4) supplies a definition of traditional documents, and article 4 modifies certain references in the 1995 Act to subscription and signing in relation to electronic documents (prior to the making of regulations under section 9E(1)(b) of the 1995 Act).

The Bill for the Land Registration etc. (Scotland) Act 2012 received Royal Assent on 10th July 2012. Sections 113, 114(1), 116, 117, 122, 123 and 124 came into force the following day.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 53(4)	1st November 2012	2012/265 (C. 26)
Section 64	1st November 2012	2012/265 (C. 26)
Section 107	1st November 2012	2012/265 (C. 26)
Section 108	1st November 2012	2012/265 (C. 26)
Section 109	1st November 2012	2012/265 (C. 26)
Section 110	1st November 2012	2012/265 (C. 26)