STATUTORY INSTRUMENTS

1973 No. 402 (S.28)

SHERIFF COURT, SCOTLAND

The Sheriff Court Houses (Transfer) (Scotland) Regulations 1973

Made - - -	*5th March* 1973
Laid before Parliament	*9th March* 1973
Coming into Operation	*1st April* 1973

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 23(5) of the Sheriff Courts (Scotland) Act 1971(**a**) and of all other powers enabling him in that behalf hereby makes the following regulations:—

1. These regulations may be cited as the Sheriff Court Houses (Transfer) (Scotland) Regulations 1973 and shall come into operation on 1st April 1973.

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

"shared property" means heritable property used immediately before the transfer date partly for the purposes of the functions mentioned in paragraph (*a*) or as the case may be paragraph (*b*) of section 23(1) of the Act and partly for other purposes;

"the Act" means the Sheriff Courts (Scotland) Act 1971;

"the transfer date" means 1st April 1973 being the date appointed by the Sheriff Courts (Scotland) Act 1971 (Transfer Date) Order 1973(**b**);

"divested authority" means a county council, Court House Commissioners or other body charged immediately before the transfer date with functions under the Sheriff Court Houses (Scotland) Acts 1860 to 1884 in relation to the provision and maintenance of a sheriff court house, or with like functions conferred on them by any local enactment.

(2) The Interpretation Act 1889(**c**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

3. The title of the Secretary of State to heritable property transferring to and vesting in him by virtue of section 23(1) of the Act shall be completed by the recording in the appropriate Division of the General Register of Sasines of a Notice of Title or of a Disposition by the Secretary of State in favour of himself which shall include such provisions as appear to the Secretary of State to be appropriate to secure in favour of any party having an interest in such property, and in the case of such part of shared property as does not vest as aforesaid, such rights of access or other rights to, in or over any part of the property as it appears to him to be appropriate to reserve to them or to himself and their or his successors.

(a) 1971 c. 58. (b) S.I. 1973/277(1973 I, p.1029). (c) 1889 c. 63.

4.—(1) Where any interest in or attaching to property or any right, liability or obligation has, by virtue of the Act, transferred to and vested in the Secretary of State, the divested authority shall, as soon as practicable and in any event not later than one month from the date of a notice given by the Secretary of State under this regulation, grant or enter into any deed which the Secretary of State may determine to be necessary.

(2) If for any reason the provisions of the last foregoing paragraph of this regulation are not or cannot be complied with, or in the event of failure or refusal by the divested authority to comply with the preceding provisions of this regulation, any deed may be executed by or on behalf of the Secretary of State and shall thereupon have effect for all purposes as if it had been granted by the divested authority.

5. The divested authority and any local authority to which section 23(3) of the Act applies shall notify the Secretary of State of the amount of any loan charges and other interests, sums, rights, liabilities, obligations or assets relating to heritable and other property transferring to and vesting in him by virtue of the Act.

6. Where, after any interest in or attaching to property or any right, liability or obligation has by virtue of the Act been transferred to and vested in the Secretary of State, any person has the right to retain possession of any writ or other document relating thereto, or to the control or management thereof, that person shall be obliged to make the same available to the Secretary of State on request, on a receipt and obligation for redelivery within a reasonable time.

7.—(1) These regulations shall not affect the validity of anything done in connection with the exercise of the functions mentioned in paragraph (*a*) or as the case may be paragraph (*b*) of section 23(1) of the Act by or in relation to a divested authority before the transfer date; and anything which at the time of the coming into operation of these regulations is in process of being done by or in relation to a divested authority may be continued by or in relation to the Secretary of State.

(2) Without prejudice to the generality of the last foregoing paragraph, any contract or arrangement relating to works or proposed works in connection with the erection or alteration of a sheriff court house shall continue as if the contract or arrangement had been made by the Secretary of State instead of the divested authority.

(3) Any proceedings pending at the appointed day with respect to any interest in or attaching to property or any right, liability or obligation transferred by virtue of the Act shall not be prejudicially affected by these regulations, and may be carried on and enforced by or against the Secretary of State.

Geoffrey Rippon,
Secretary of State for the Environment.

5th March 1973.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision for various matters in relation to sheriff court houses in Scotland which transfer to and vest in the Secretary of State for the Environment by virtue of section 23(1) of the Sheriff Courts (Scotland) Act 1971 on 1st April 1973, the transfer date appointed by the Sheriff Courts (Scotland) Act 1971 (Transfer Date) Order 1973. Regulation 3 deals with the completion of title to the sheriff court houses by the recording of deeds in the General Register of Sasines, and contains provisions relating to the safeguarding of access and other rights in favour of authorities formerly responsible for sheriff court houses, the Secretary of State and any other parties. Regulation 4 makes provision in connection with the granting of other necessary deeds; Regulation 5 makes provision in connection with the transfer of loan charges and other matters to the Secretary of State; Regulation 6 allows the Secretary of State to have access to deeds which will remain the property of other parties; and Regulation 7 makes provision for the continuation of matters current at the transfer date.

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