

INSIGHT

Notices of land or property under litigation

The Scotland has specific mechanisms for warning that land is the subject of ongoing legal proceedings. We will guide you through the Scottish systems, including recent changes to the law.

Like much else relating to land in Scotland, the traditional system of “Notices of Litigiosity” has been affected by recent modernisation of land registration. We can help you navigate the current system and avoid getting caught up in on-going civil court proceedings.

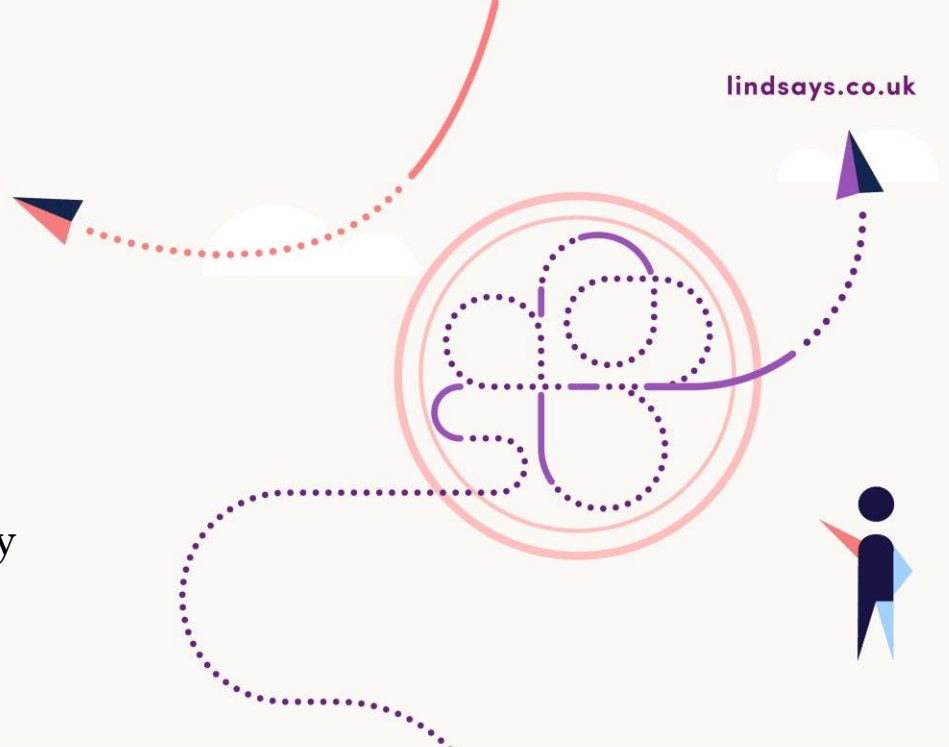
Notices of Litigiosity

The phrase is ancient but the law has been updated recently. In simple terms, Notices of Litigiosity serve as a warning to any party interested in land (whether in acquiring it, or for some other purpose) that it is the subject of ongoing legal proceedings – i.e. it is “litigious”.

The effect of such a Notice is that the owner of the land cannot dispose of it (or otherwise deal with it) in such a way as to prejudice the rights of the other party (or parties) to the court action.

Notices of Litigiosity have long been accepted for recording in the Register of Inhibitions. But now, following changes in the Land Registration etc (Scotland) Act 2012, they are only effective in relation to land recorded in the Register of Sasines. This Register is being phased out, and properties in the newer Land Register of Scotland are subject to a newer system, described below.

If you are interested in land in Scotland and it turns out



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to carry a Notice of Litigiosity, our team can advise on your most practical course of action.

Caveats on property titles

The Land Registration etc (Scotland) Act 2012 introduced a new system of caveats on property titles in Scotland.

A caveat on a title sheet in the Land Register serves as a warning that civil court proceedings relating to the property are ongoing. These caveats have to be distinguished from [caveats](#) lodged in order to get notice of application to the court for, for example, interim orders. Caveats automatically expire after 12 months but they can be renewed.

Any party to proceedings in the Scottish Courts (the [Court of Session](#) or the [Sheriff Courts](#)) relating to a heritable property can apply to have a caveat placed on the title sheet of a property in the Land Register. To do so, they must show the Court that:

- they have a prima facie case
- they are at risk of being prejudiced by the other party disposing of the property or otherwise dealing with it
- it is reasonable in all the circumstances for the court to grant the order.

Our Dispute Resolution and Litigation team can advise you on whether you need to, or could, place a caveat on a property, how to go about it, or what to do if you're interested in a property that carries a caveat.

Both Notices of Litigiosity and Caveats are distinct from inhibitions which prevent the voluntary disposal of heritable property.

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