

RESPONSE TO THE REGISTERS OF SCOTLAND'S CONSULTATION PAPER ON COMPLETION OF THE LAND REGISTER

The Church of Scotland General Trustees (“the General Trustees”) welcome the opportunity to contribute to the Registers of Scotland’s consultation on completion of the Land Register.

The General Trustees are the main property holding body with regard to Church of Scotland properties. In particular, title to more than two thirds of Church of Scotland Churches, Manses, Church Halls and other Congregational property in Scotland is vested in them. In addition, the General Trustees also own almost 13,000 acres of agricultural land known as Glebes. The General Trustees are a statutory corporation having been set up by Act of Parliament in 1921. They are a registered Scottish Charity SC014574.

From time to time, Congregations where title to property is held in name of local office-bearers, transfer title to the General Trustees. In those cases, it has been the practice in the past to ask the Keeper to consider voluntary registration of such properties as the General Trustees appreciate the value of holding property by way of a registered title. However, the numbers of such properties which have been registered together with those which have been purchased since the introduction of land registration comprise a relatively small proportion relative to the number which remains held by the General Trustees on unregistered titles. Because of the territorial ministry provided by the Church of Scotland, the General Trustees have considerable title holdings in all the registration counties in Scotland and, by their nature, the number of individual property titles is large. For example, there are some 700 individual parcels of Glebeland ranging in size from a few acres to the largest glebe which is in excess of 2000 acres.

The General Trustees fully accept and support the benefits which completing the Land Register will bring and, indeed, anticipate that once their own property holding has been completely registered, this will result in their being able to administer their property holdings more efficiently. However, they see the exercise as being potentially very challenging both for themselves and for the Registers.

The General Trustees would answer the questions posed as follows:-

Question 1

Do you agree that Scottish Ministers should close the Sasine Register to Standard Securities?

Yes

Question 2

Do you agree that the fee for the associated voluntary registration of the property should be waived?

Yes. An alternative would, however, be to reduce the voluntary registration cost or waive the fee for the Standard Security.

Question 3

Do you agree that closure of the Sasine Register for Standard Securities should be introduced across Scotland at the one time or should it be introduced on a staggered basis by county or by groups of counties?

The General Trustees agree that the closure should be introduced across Scotland at the one time.

Question 4

What deeds do you consider is appropriate to close the Sasine Register to and so require voluntary registration of the title in order to give legal effect to the deed?

The General Trustees would suggest that the Registers of Sasines should remain open in the case of deeds where the owner of the property, or its tenant under a registered lease, is not a party to the deed and that, accordingly, registration should not be triggered by deeds such as Tree Preservation Orders, Notices of Payment of Improvement Grant and the like. In addition, the various types of Discharges (Standard Security, Charging Order etc.) should not trigger registration.

Question 5

Do you agree that the fee for the associated voluntary registration of the property should be waived?

Yes.

Question 6

Do you agree that the legal power the Keeper has to refuse a request for voluntary registration should be removed, irrespective of the outcome of the proposals on introducing additional triggers?

Yes.

Question 7

Do you agree that a reduced fee should apply to voluntary registration? If so, do you agree with the proposed 10% reduction?

In many cases, it would seem foreseeable that with Keeper induced registration (for which it is noted no registration fee will be charged) for the Registers staff to undertake registration without the involvement of the owner and more importantly the owner's solicitor would be a difficult and time-consuming exercise for the Registers staff. Indeed, this would appear to run contrary to the philosophy of the Land Registration etc. (Scotland) Act 2012 of putting the solicitor at the heart of the registration process ("tell me, don't show me"). The Trustees are strongly of the view that there would be much merit in encouraging as many proprietors as possible to undertake voluntary registration of their title. However, in order to do so the General Trustees would suggest that a higher discount than 10% will be necessary. The Keeper should also consider negotiating an attractively-discounted block fee with landowners of multiple properties such as the General Trustees.

Question 8

Do you agree with the proposed approach to piloting KIR to inform a consultation on the detailed approach to and strategy for KIR?

The approach seems a sensible one but should be kept under review as "learning points" arise.

Question 9**Should other elements be included in the pilot and what should these be?**

Yes. It might be useful to “trial” situations where properties are held “off register” - such as common good land held by Local Authorities and Churchyards where the local authority title is an Act of Parliament - and also other properties where ownership may be difficult to resolve, e.g., private roads.

[There appear to be no questions 10 – 12]

Question 13**Do you agree with the proposed approach to completion**

As already indicated, the General Trustees have concerns that the 10 year timeframe for completion set by Scottish Ministers is unrealistic. Otherwise, the approach seems a sensible one.

Question 14**Have you any views on our proposals for funding the completion of the Land Register**

The General Trustees would suggest that further consideration should be given to the Keeper paying solicitors’ costs in relation to legal work instructed by owners of property that is the subject of a Keeper-induced registration. As indicated, if the owner is legally represented, this will likely simplify the registration process and save the Registers time and expense. It will reduce the risk of the Land Register being inaccurate. The General Trustees consider

that an owner would be wise to employ a lawyer to check the extract of the Title Sheet and title plan supplied against the title deeds but many owners whether individuals, or bodies such as charities, may be unable to afford to do so.