

## **Implementation of Land Registration, etc (Scotland ) Act 2012**

### **Response by the Council of Mortgage Lenders to the Registers of Scotland Consultation paper**

#### **Introduction**

1. The Council of Mortgage Lenders (CML) is the representative trade association for mortgage lenders. Our 115 members and 91 associates comprise banks, building societies, insurance companies and other specialist mortgage lenders who, together, lend around 95% of the residential mortgages in the UK. In addition, the CML's members have lent over £60 billion UK-wide for new-build, repair and improvement to social housing of which just under £4 billion is in Scotland.

2. CML Scotland welcomes the opportunity to respond to the consultation by the Registers of Scotland on the implementation of the Land Register, etc (Scotland) Act 2012.

#### **General**

3. This consultation more directly impacts on those involved in the day to day conveyancing practice in Scotland i.e. members of the Law Society of Scotland. Mortgage lenders normally employ Solicitors to carry out title and other checks and to prepare their Standard Security prior to release of the loan monies. It is therefore our intention to restrict our answers to the questions posed in the consultation paper to those which we believe to be of some relevance to mortgage lenders.

#### **Notification of non-proprietors in prescriptive application cases**

4. We would like to see there being an obligation on the Keeper to inform other potentially interested parties about a prescriptive application and not just simply the proprietor.

#### **Advance Notices**

5. Having recently attended a workshop we are disappointed in how advance notices are going to work in practice. They seem to be simply replacing Solicitors' letters of obligation and do not seem to work in the same way as advance notices in England and Wales where they are capable of being renewed. In addition the priority period at 35 days in our view is too short.

#### **Specific Questions**

6. **Question 1 Do you agree the Keeper should use separate title sheets for the landlord's and tenant's rights on all occasions rather than opting to use a single title sheet?**

We would support this proposal.

7. **Question 4 Do you consider the "date title sheet update to" should continue to be reflected in the title sheet and provision made in the Rules?**

We agree the "date title sheet updated" to should continue to be reflected in the title sheet.

8. **Question 6 Do you agree the Keeper should continue to disclose the consideration in the proprietorship section and provide for this in the Rules?**

We agree the consideration should continue to be disclosed in the proprietorship section. This information may for example be of assistance to our members in fraud investigation matters.

## **CML Scotland**

9. **Question 27 Do you agree that, in limited circumstances where they will be permitted, the requisition policy should be applied to all application types?**

We agree that the Keeper's requisition policy should be applied to all application types.

10. **Question 42: Do you agree that the Rules should make further provision regarding a minimum period for notification to take place prior to a prescriptive claimant application being submitted?**

**Question 43: If so, do you agree that 60 days is a suitable period?**

We do agree that the rules should make provision for a minimum period of notification and that 60 days should be the absolute minimum period considered.

11. **Question 49: Would you see a benefit in any other unilateral deed being included in an Order under section 64? If so, what deeds do you feel would be appropriate for inclusion?**

We see a potential benefit in other unilateral deeds being included in an order under section 64. For example, in some cases it may be appropriate for a section 75 planning obligation to be included.

12. **Question 54: Do you agree that the Keeper should not restrict warranty purely on the basis of the existence of a caveat?**

We agree that the Keeper should not restrict warranty purely when a caveat exists.

13. **Question 62: Do you agree that access to the Keeper's registers should be provided for by order of the Scottish Ministers and that such access should continue via the Customer Service Centres by letter, email or in person?**

We agree that access should continue to be given to the Keeper's Registers and if necessary, that this should be provided for by order of the Scottish Ministers.

#### **Further contact**

14. This response has been prepared by the CML in conjunction with its members. Any comments or enquiries should, in the first place, be directed to:

Kennedy C Foster  
CML Policy Consultant Scotland  
19 Lodge Park  
Kilmacollm  
PA13 4PY

[Kennedy.Foster@cml.org.uk](mailto:Kennedy.Foster@cml.org.uk)

Telephone: 01505 874 975  
Mobile: 07881 991 529

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