

## KIR Consultation Survey Response

### PAGE 2: Information about you

**Q3: Are you responding as: (please select below)**  
on behalf of a group or organisation

### PAGE 3

**Q4: Individuals Do you agree to your response being made available to the public (in the Scottish Government library and on the RoS website)?**

*Respondent skipped this question*

### PAGE 4

**Q5: Where confidentiality is not requested, we will make your response available to the public on the following basis (Please select ONE of the options)**

*Respondent skipped this question*

### PAGE 5

**Q6: On behalf of groups or organisations The name of your organisation WILL BE made available to the public (in the Scottish Government library and on the RoS website). Are you content for your response to be made available?**

Yes

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**Q7: 1. Do you agree with the proposed approach to KIR starting with residential properties in research areas?**

Yes

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**Comment:** These would probably be the easiest properties to deal with. However, given the overall aim of KIR, it may be prudent to start with registering larger, publicly held areas of land, also within research areas and that are subject to the shorter time scale on registration. More experience could be gained by the Keeper's team more quickly, with these more complicated titles, making the residential properties in research areas very easy and fast to deal with when they come around to be registered – they are also more likely to change hands in the interim period and so may not in fact ultimately require KIR. However, the team at Registers of Scotland dealing with KIR have recently confirmed that they will only be dealing with residential properties in research areas at the moment.

**Q8: 2. Do you agree that we should start KIR in areas that will have the highest impact on completing the land register and supporting conveyancing?**

Yes

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**Comment:** As above for question 1, that isn't necessarily the residential properties in research areas. The highest impact on supporting conveyancing may be gained through working closely with landowners to register more complicated and larger titles.

**Q9: Q3. Do you agree that we should work in partnership with the owners of heritage assets to complete registration of their titles by KIR?**

**Comment:** This question does not appear as part of the questions listed at the back of the consultation document and has therefore not been considered.

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**Q10: Q3. Should land that has entered the land register through KIR be identified differently from a trigger-based or voluntary registration through a note in the property section of the title sheet, and/or a separate field marking the date of keeper-induced registration?**

Yes

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**Comment:** For the reasons given in the consultation (para 22) i.e. that a KIR is not applicant induced and therefore careful checking of the title should be undertaken once registered to identify any errors or rectification required as quickly as possible. We don't see any practicable difference to this information being included in a field or a note.

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**Q11: Q4. Do you agree with the Keeper's general approach to the KIR mapping of legal extent?**

Yes

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**Comment:** It involves the preparation and scrutiny of a pre-registration plans report and for the resolution of any overlaps or gaps to be thoroughly investigated with the owner of the property.

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**Q12: Q5. Do you agree with the keeper's proposed approach to incorporeal pertinents?**

Yes

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**Comment:** Yes – it will involve investigation into and disclosure of whether there are any burdens or servitudes affecting the title and, as with “normal” registration of land, the Keeper will at this stage extinguish any burdens or servitudes that are obsolete.

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**Q13: Q6. Do you agree with the keeper's proposed approach to property titles that include an 'equally and survivor' destination or are held by ex-officio trustees?**

Yes

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**Comment:** The Keeper is proposing to include a note stating that the current ownership is not known with certainty either because she does not know whether or not the survivorship destination has operated (i.e. one party has died, leaving the other as sole owner) or the current trustees/office bearers of a landowning body are not known. This seems reasonable but is also an opportunity for the Keeper to write to the current owner(s) asking for confirmation. If no reply is received within 40 days then the statement as suggested can be attached.

**Q14: Q7. Are there any other circumstances where the sasine register may not show the last person with a completed title?**

Yes – where a statutory successor of a proprietor now holds title for example where land has passed from West Lothian District Council to West Lothian Council via statutory re-organisation.

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**Q15: Q8. Do you foresee any practical difficulties in narrating a list of the deeds that contain encumbrances, rather than setting out the burdens in full? If so, how could these difficulties be addressed?**

Yes

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**Comment:** One obvious difficulty is that the Land Certificate produced then does not list all the title conditions in one place and so does not accord with the stated aims of “making it simpler to work out who owns a property, the extent of that property and what restrictions, burdens and servitudes apply”. The burdens must either be set out in full or a hyperlink to the deeds provided. Professional advisers should come to their own conclusions on the risk posed by a burden in a deed, taken in the context of the rest of the deed.

**Q16: Q9. Do you agree that the keeper should adopt the same approach to listing deeds in the burdens section for triggered registrations with a hyperlink to the text of the deed?**

A hyperlink to the full deed and not just to the text of a section of the relevant deed, would be required as the most accurate way of ensuring that no burdens are lost or “over-edited”.

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**Q17: Q10. Are you content with how we plan to communicate KIR?**

Yes

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**Comment:** Details of what new registered owners should do if they discover a mistake has been made should be communicated at the earliest possible stage and the ability to check if a title is currently being or is proposed to be subject to Keeper Induced Registration would also be useful.

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**Q18: Q11. Do you agree the keeper should produce guidance on the additional information likely to be required at the next transaction after a KIR?**

Yes

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**Comment:** Yes that would be useful.