



**Registers  
of Scotland**  
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**Registers of Scotland**

**Completion of the Land Register**

**Report on the Public Consultation**

February 2015

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## Part 1 – Background

### The purpose of Registers of Scotland

1. Registers of Scotland (RoS) is the non-ministerial government department responsible for registering a variety of legal documents in Scotland. We are self-funding, having been established as a trading fund in 1996. RoS is headed by a statutory office bearer, the Keeper of the Registers of Scotland, who is responsible for compiling and maintaining 17 public registers.

2. The largest registers maintained by the keeper are the registers of rights in land. The General Register of Sasines (Sasine Register), established in 1617, is a register of deeds. This is gradually being replaced by the map-based Land Register of Scotland, established by the Land Registration (Scotland) Act 1979 (1979 Act). The 1979 Act was largely superseded on 8 December 2014, with the commencement of the main provisions of the Land Registration etc. (Scotland) Act 2012 (2012 Act).

### The consultation on completion of the Land Register

3. One of the main purposes of the 2012 Act is to allow for the completion of the Land Register. The rationale for completion of the Land Register was summed up succinctly by the Scottish Law Commission: *“The short answer is that the Land Register is better than the Register of Sasines.”* The keeper has been invited by Scottish ministers to complete the Land Register over a 10-year period.

4. On 4 July 2014, RoS published a consultation paper setting out our proposed approach to completion of the Land Register. The consultation closed on 4 November 2014. In total, 47 responses were received. These included responses from:

- stakeholder groups, including the Council of Mortgage Lenders, Scottish Land & Estates and the Scottish Property Federation
- 17 local authorities
- four other public sector bodies
- four firms of solicitors
- a number of voluntary organisations.

5. Several respondents declined permission for the publication of their responses, or requested anonymity. As a result, 42 responses were published in the Scottish Government library and were placed on the RoS website at <https://www.ros.gov.uk/about-us/what-we-do/our-business/consultations/completion-of-the-land-register>. As part of the consultation, we held public meetings in Edinburgh, Glasgow and Inverness. We also held a meeting with conveyancers who have a particular interest in re-mortgage transactions to elicit their views on questions 1-3 in the consultation paper. We would like to express our thanks to all who took the time to respond to our consultation paper or to attend the consultation meetings.

6. In this consultation report we have endeavoured to reflect objectively the range of views expressed by respondents on the 11 questions asked in the consultation paper, and to take account of other comments made by respondents insofar as they relate to those questions. We have also given our response to the key issues and recommendations raised by respondents, including our proposals for future consultation.

## Part 2 – Closure of the General Register of Sasines

### Closure of the General Register of Sasines to standard securities

**Question 1: Do you agree that Scottish ministers should close the Sasine Register to standard securities?**

**Question 2: Do you agree that the fee for the associated voluntary registration of the property should be waived?**

**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?**

### *Respondents' views*

7. A significant proportion of respondents (33 of 38 who answered question 1) were supportive in principle of the proposed closure of the Sasine Register to standard securities. We held a meeting with the Council of Mortgage Lenders and solicitors with an interest in re-mortgaging to explore the implications of this proposal. It was suggested that lenders and solicitors would require around six months' notice in order to consider the consequences and update their systems and processes, albeit it was acknowledged that closure of the Sasine Register to standard securities would affect a relatively small proportion of re-mortgage transactions. There was also strong support amongst respondents to the consultation for the principle of implementing the proposal across Scotland at one time; only Highland Council (who noted that "*Highland was one of the last Counties to go on to Land Registration*") recommended a staggered approach.

8. Respondents raised points about the timing. For instance, in addition to the comments noted in paragraph 7, Brodies LLP commented that: "*...we would suggest that the Scottish Ministers consider the timing of the closing of the Sasine Register to standard securities very carefully. The implementation of the 2012 Act will result in a significant increase in applications for registration. Adding to this increase by closing the Register of Sasines to standard securities may be unwise in the initial implementation stages of the new Act. We would therefore suggest that it remain open to standard securities for at least another 5 years.*"

9. A number of respondents suggested that implementation be delayed until the 2012 Act had bedded in. Two respondents<sup>1</sup> suggested that the keeper should encourage voluntary registration as the means of completion before creating additional compulsory triggers for first registration.

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<sup>1</sup> Scottish Land & Estates and Thorntons Law

10. Turcan Connell raised a matter of practice in relation to the potential for a landowner to grant a security over only part of their title: *“In that case we assume the associated registration will be in respect of the part over which the Standard Security is being granted. This could lead to piecemeal registration of an Estate particularly if the granting of leases also trigger registration of the underlying land. If there is piecemeal registration, consideration will need to be given to the creation of servitudes and burdens over parts of an Estate which are then placed on separate titles. We consider this leaves a considerable capacity for error and will also lead to additional costs for the landowner.”*

11. The consultation paper stated that a title examination, usually paid for by the debtor, has to be carried out when a security is granted. However, several respondents questioned whether a sufficient examination to enable voluntary registration would necessarily be carried out for a re-mortgage. For instance, the Council of Mortgage Lenders explained that they would expect this to be the case for new lending, but not necessarily in the residential re-mortgage market where a lender may choose to rely on the examination of title undertaken by a previous lender. Inverclyde Council commented: *“...we are of the view that from outside the Local Authority perspective, the additional costs and work involved in security work may operate as a barrier, or at the very least a further complication, to borrowers obtaining secured loan funding. We feel the potential this has to act as a restriction on commercial and economic development may outweigh the benefits of the additional registrations.”*

12. Thirty-eight respondents answered question 2, all of whom supported the principle of a concession on fees. Brodies LLP pointed out that a precedent for the waiver of fees has already been set by not requiring a fee for automatic plot registration (ie registration of the landlord's title) in the case of first registration of a tenant's interest. Other respondents suggested alternative approaches, such as charging only for the voluntary registration and instead waiving the fee for the registration of the security.

### **RoS' response**

13. In view of the strong support demonstrated by consultees, Scottish ministers intend to bring forward an Order under s 48(2) of the 2012 Act to enable the closure of the Sasine Register to standard securities. The Order will apply to the whole of Scotland and will be supported by an Order removing the keeper's discretion to refuse voluntary registration. We estimate that implementing this proposal will lead to registration of around 5% of the titles that currently remain in the Sasine Register during the 10-year period.

14. However, we note that there is a need to ensure that lenders have confidence in the approach that will be taken to voluntary registration, and that lenders and the keeper should work together to ensure that borrowers and their solicitors can fulfil lenders' requirements. RoS welcomes the constructive approach to the proposal that

has already been taken by the Council of Mortgage Lenders and by solicitors with an interest in re-mortgage transactions. We will seek to develop proposals more fully in discussion with stakeholders. We propose that the provisions will come into effect towards the end of 2015. However, we will announce the intended commencement date at least six months in advance, to allow lenders and solicitors time to plan for the change.

15. There may be a number of cases where the area over which a security is to be granted will be less than the area held by the proprietor under a particular title. The keeper will, as part of general guidance on this provision, recommend that voluntary registration of the whole title should take place.

16. We note that there is strong support for the principle of a concession on the fees for voluntary registrations where a standard security is being granted. Scottish ministers intend to make an Order under s 110 of the 2012 Act, waiving the fee for voluntary registration of the land being secured where the purpose of registration of the title is to enable the grant of a standard security. The fee for the registration of the standard security itself will be the current fee of £60.

#### **Closure of the Sasine Register to other deeds**

**Question 4: What deeds do you consider it appropriate to close the Sasine Register to and so require voluntary registration of the title in order to give legal effect to the deed?**

**Question 5: Do you agree that the fee for the associated voluntary registration of the property should be waived?**

#### ***Respondents' views***

17. The consultation paper suggested at paragraph 29 that the Sasine Register might be closed to deeds granted by the owner of the property, where the grantor will have engaged a solicitor to examine the title position. A number of the consultation responses expressed a similar potential rationale for deciding which deeds should no longer be capable of recording, albeit respondents were not necessarily agreed as to the types of deed or transaction where a full examination of title was likely to be undertaken by a solicitor. In particular, there were conflicting views with regard to the two deed types referred to in paragraph 29 (deeds of conditions and deeds of servitude).

18. Some respondents specifically or implicitly agreed that the Sasine Register should be closed to deeds of conditions. Brodies LLP explained that deeds of conditions: "*tend to be over larger areas which are about to be divided and sold ... We would suggest that only deeds of conditions which define the community affected by the deed composed of properties burdened and benefited by the same or similar title conditions should trigger voluntary registration and that these should be distinguished*

*from deeds of real burdens and deeds of servitude which identify separate burdened and benefited properties.”*

19. Several local authorities supported the closure of the Sasine Register to deeds of conditions, while others argued that this might inhibit development.

20. Four respondents<sup>2</sup> expressly supported closing the Sasine Register to deeds of servitude. Two respondents<sup>3</sup> expressed the view that a sufficient level of examination of title for voluntary registration would not necessarily take place for the granting of a servitude. Several local authorities were opposed to a requirement for registration in the Land Register in order to create a deed of servitude. For instance, North Lanarkshire Council commented: *“We do not agree that closing the Sasine Register to Deeds of Servitude is appropriate in relation to burdened land. Development of a site is often only possible where a landowner, often a public body, agrees to grant the necessary rights. We would not welcome additional measures which may thwart developments. It does not make sense to register only a small strip, e.g. for a pipeline when the entire Sasine title may extend to many acres.”*

21. The list of deed types referred to in the consultation paper that continue to be capable of recording in the Sasine Register includes a range of deeds granted by local authorities over properties in their area. Broadly speaking, local authority respondents were opposed to closure of the Sasine Register to such deeds. Some such deeds (eg charging orders, or notices of potential liability for costs) are recorded primarily to protect the public purse, and councils are concerned that proprietors would be unwilling to co-operate by voluntarily registering their title. More than one local authority commented that closing the Sasine Register to notices of payment of improvement or repairs grants might impact on the ability of local authorities to help owners (eg people with disabilities) to improve their homes. Local authorities also expressed concern that a requirement for registration in the Land Register as a precursor to a compulsory purchase order, a planning agreement or a tree preservation order might result in significant delay to development as well as placing an undue resource burden on the affected local authority.

22. Those respondents who commented in relation to deeds discharging an interest (eg a discharge of a servitude or a charging order, or the renunciation of a lease) were of the view that such deeds should not require the relevant land to be registered in the Land Register.

23. On the charging of fees, one respondent<sup>4</sup> disagreed with the waiver of fees for a voluntary registration intended to enable the registration of a deed to which the Sasine Register had been closed. Other respondents favoured waiving or reducing the fees in some or all circumstances.

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<sup>2</sup> Moray Council, West Dunbartonshire Council, Highlands & Islands Enterprise and Scottish Water

<sup>3</sup> Network Rail Infrastructure and Optima Legal

<sup>4</sup> Landownership Scotland



## ***RoS' response***

24. The closure of the Sasine Register to deeds other than standard securities would not introduce a requirement for proprietors to apply for voluntary registration. Instead, the keeper would require to make up a title sheet for any land affected by a deed presented for registration. This would inevitably result in a piecemeal approach to increasing coverage that would cut across the keeper's intention to promote voluntary registration of the whole of a proprietor's land and to undertake a structured programme of keeper-induced registration (KIR). We note that there is no clear consensus amongst respondents to the consultation as to whether particular deed types (other than standard securities) should trigger registration in the Land Register. We do not therefore propose closing the Sasine Register to other deeds at this stage. We will, however, return to this issue and consult further with stakeholders in due course.

## Part 3 – Voluntary registration

**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?

**Question 7:** Do you agree that a reduced fee should apply to voluntary registrations? If so, do you agree with the proposed 10% reduction?

### ***Respondents' views***

25. The consultation paper acknowledged that the keeper has operated an open door policy for voluntary registration for some time, and that this will continue. Most respondents agreed that this should be formalised by the removal of the keeper's discretion to refuse voluntary registration. In particular, two respondents<sup>5</sup> considered that this would give landowners an opportunity to choose to pursue voluntary registration at a time that is convenient to the owner.

26. Most respondents supported the principle that applicants for voluntary registration should not have to pay the full prescribed registration fee. Two respondents<sup>6</sup> felt that the proposed 10% reduction was reasonable, but the majority of respondents felt that this would not be a sufficient incentive to encourage proprietors to apply for registration. Several respondents proposed fee reductions in the range of 20% to 40%. Scottish Water suggested that: *"the Land Registry in England and Wales offers a 25% discount for voluntary registrations which was applied to utilities registering historic assets so it is suggested the 10% proposed reduction should be increased to this level to facilitate early registration."*

27. Several respondents suggested other approaches to feeing that might give proprietors an incentive to apply for voluntary registration. A number of respondents proposed that voluntary registration should be free, either indefinitely or for an initial five-year period. A repeated suggestion was that applicants with large landholdings and/or complex titles should be able to agree a fee based either on a fixed fee or on the staff costs for RoS in processing a related bundle of applications. Three respondents<sup>7</sup> suggested that RoS could mitigate both the cost to applicants and the risk of rejection under the 'one-shot rule' by setting up a dedicated team to work with the owners of large landholdings prior to and during the process of registration. For instance, Brodies LLP recommended: *"In the interests of promoting voluntary registration and with the one shot rule in mind, we would also encourage Registers to have a team of case workers who deal with large complex / multiple applications for registration. It would be helpful if we could have a point of contact in this team to work with before presenting such applications for registration and may save time and money for all concerned in the long run."*

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<sup>5</sup> Scottish Land & Estates and Turcan Connell

<sup>6</sup> Council of Mortgage Lenders and Network Rail Infrastructure

<sup>7</sup> Brodies LLP, Scottish Land & Estates and Thorntons Law

28. Scottish Land & Estates noted that: *“having a designated complex team for large rural estates would allow a useful contact point and ensure that the process of voluntary registration can be dealt with as smoothly as possible ... To be clear, this would be an entirely different service to that provided from the title investigations team at Registers of Scotland.”*

Scottish Water proposed a complementary approach *“allowing for the secondment of individuals into the Registers of Scotland or controlled access to their database ... where an organisation has already plotted or has the ability to plot its land onto a Ordnance Survey Database and this is cost effective for both parties.”*

29. Several respondents commented on different aspects of perceived unfairness in relation to the proposal to reduce registration fees for voluntary registration. For instance, Scottish Natural Heritage commented: *“We would question why [the registration fee] is not proposed to be waived completely when there is a proposal to waive the fee for voluntary registration of properties triggered by the closure of the Sasine Register to certain deeds. Any registration fee may be a disincentive for many property owners to bring forward properties for voluntary registration, particularly when the alternative (KIR) may be free of charge.”*

30. One respondent<sup>8</sup> suggested that a landowner might be able to achieve first registration at minimal cost by granting a standard security for a fictitious debt and taking advantage of the proposed waiver of registration fees for transaction-induced voluntary registration. On the other hand, it was pointed out that reducing fees for some applicants merely meant that the costs of voluntary registration would be paid by those applying for mandatory registration.

31. A significant number of respondents echoed a point made in the consultation paper that the registration fee is only one aspect of the cost to the proprietor in seeking voluntary registration; for instance, Thorntons Law suggested that professional costs were likely to be a more significant factor for proprietors than the fee charged by RoS. Public bodies, in particular, raised concerns about the cost of seeking voluntary registration and the impact this would have on budgets.

### **RoS' response**

32. Scottish ministers intend to make a negative Order under s 27 of the 2012 Act, removing the keeper's discretion to refuse applications for voluntary registration where such applications otherwise fulfil the requirements for registration. As noted in paragraph 13, this will come into effect no later than the date on which the Sasine Register is closed to standard securities. In the meantime, however, the open door policy for voluntary registrations continues and RoS is acting on the commitment in the consultation paper to engaging with those who have an interest in voluntary registration. Two stakeholder engagement managers are now in post. One postholder will focus on engagement with public sector bodies with a view to completion of registration of all public land in a five-year period, while the other will engage with the

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<sup>8</sup> Response 1

private sector and third sector with a view to completion of the registration of all other land within 10 years. As part of our engagement with stakeholders, we will indicate what steps we intend to provide to support proprietors who are willing to seek voluntary registration.

33. The fees for registration are set by Scottish ministers. To encourage applications for voluntary registration, Scottish ministers have agreed to a reduction of 25% on the standard fees for voluntary registration for an initial period of two years. We anticipate that an amendment to the current RoS Fees Order will be brought into force by the start of the summer parliamentary recess in 2015. The reduction will be subject to review as part of the next scheduled review of RoS fees in 2017.

34. Many respondents have suggested innovative ways to reduce the overall cost of voluntary registration, including the potential for RoS and applicants to work more collaboratively to prepare and process larger scale property holdings with the registration fee being related to the global cost of registering such a portfolio of property. RoS welcomes the suggestions in paragraphs 27 and 28 and we will work with stakeholders to explore the feasibility of these options. We expect to publish proposals later in 2015 for the implementation of appropriate options.

## Part 4 – Piloting keeper-induced registration

**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?**

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

### *Respondents' views*

35. All respondents who answered question 8 agreed in general terms with the principle of running a pilot to inform future approaches to KIR. Similarly, there was no disagreement with the proposal that the pilot project should include the five different types of property title listed in paragraph 37 of the consultation paper<sup>9</sup>.

36. A significant number of respondents questioned whether the pilot included a sufficient range of the types of properties that might in due course require to be registered by KIR in order to complete the coverage of the Land Register. The first of two dominant themes in the responses to these questions was the suggestion that the pilot should include a wider variety of properties to which title was unlikely to have entered the Sasine Register. Almost half of the responses from local authorities recommended that the pilot should include common good land of the former burghs, land held under Royal Charters or local Acts of Parliament, or other land whose use (if not the title) had been acquired for the public (eg the *solum* of adopted roads). Renfrewshire Council explained that the title to land of this type is regularly open to question. Two respondents<sup>10</sup> suggested that the pilot should include churchyards.

37. The second dominant theme was that the pilot should include agricultural land and country estates. Several respondents suggested that this would bring out the difficulties associated with the assumption (acknowledged in the consultation paper) that the information available to the keeper was unlikely to be as comprehensive as that available to an applicant. A number of respondents expressing this view also suggested that the KIR pilot should include an assessment of the advantages and costs of involving the proprietor or their solicitor.

38. While these questions were intended to draw out comments on the scope of the pilot project, a number of respondents commented more generally on the proposed methodology for KIR. A proportion of local authority respondents appeared to envisage KIR as a key means of achieving the objective of registering all public land within five years. Glasgow City Council asserted: *“Given the resources (both in terms of fees and employee time) required, the Council is unlikely to undertake voluntary registration except on isolated occasions. As a consequence, substantial progress towards completion of the Register would then fall on the Keeper through Keeper*

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<sup>9</sup> heritage assets, RoS research areas, titles that support Scottish government initiatives, a cross-section of non-research area properties, and coastal and seabed titles

<sup>10</sup> Professor Stewart Brymer and the Church of Scotland General Trustees

*Induced Registration ... The Council considers that a further KIR pilot should be included which would consider public sector bodies with large and diverse land holdings ... For any pilot to be meaningful, funding should be made available to the participant.”*

39. A number of correspondents expressed concerns at the intention implicit in paragraph 33 of the consultation paper that the keeper would base the extent of KIR titles on decisions derived from recorded title deeds and her extensive set of maps. Equally, some respondents were concerned by the implication that in some cases the keeper would be sufficiently sure of the absence of off-register transfers that she might enter the name of a proprietor in the title sheet. One respondent<sup>11</sup> suggested: “*I consider there should be a policy of notifying landowners of a proposed KIR as soon as possible, and engaging with them, rather than waiting until registration is complete to tell the landowner about the KIR. The Keeper will not know if a transaction is already underway, leading to potential duplication of work. Also it is clearly preferable for any issues to be dealt with at first registration rather than by rectification. I am gravely concerned at the attitude taken in para. 34 of the consultation, namely that over-mapping in KIRs is not a problem due to the general exclusion from the Keeper’s warranty. The point of the Land Register is that the public can rely on it absolutely.*”

40. Thorntons Law, meanwhile, suggested that notification to the wrong person might give rise to “*a natural expectation on that person that they are the owner of land when they are not.*”

### **RoS’ response**

41. The purpose of questions 8 and 9 in the consultation paper was to elicit views on the proposed KIR pilot, rather than on the methodology for KIR itself. To that extent, RoS is satisfied that the views of respondents support the approach we intend to adopt. However, we welcome the suggestion that it would make sense to pilot KIR across a wider range of types of title. We also welcome the suggestion that proprietors and solicitors with a particular interest should be involved in a range of pilot registrations. We will give consideration to both suggestions during the pilot project, which will be completed during the first half of 2015.

42. We also welcome the comments made by respondents on the proposed methodology for KIR. In particular, we will take into account the concerns that over-mapping or making assumptions about the identity of an owner may undermine the extent to which third parties feel able to rely on the accuracy of the Land Register.

43. We have begun work on the pilot projects for KIR. Approaches have been made to several landowners with a view to seeking their co-operation and support for KIR of part or all of their land holdings. We intend to complete this pilot project by 30 June 2015. We will review the outcomes of the project and intend to issue a consultation paper on KIR in summer 2015.

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<sup>11</sup> Response 1

## Part 5 – The approach to Land Register completion

**Question 10:** Do you agree with the proposed approach to completion?

**Question 11:** Have you any views on our proposals for funding the completion of the Land Register?

### ***Respondents' views***

44. The answers to question 10 revealed a significant disparity of responses. More than one third of respondents agreed broadly with the proposed methodology for completion. However, 16 respondents (including a number who agreed with the methodology) expressed reservations about either the five-year timeline for registration of public land, or the 10-year timeline for completion of the Land Register, or both. Professor Stewart Brymer suggested: *“The 10 year timeframe for completion set by Scottish Ministers is ambitious but may well be achievable if the Keeper has received early positive feedback from major landowners and public utilities. Perhaps a 15 year period would be more realistic so long as there were agreed benchmarks on performance against the plan. A 10 year timetable will focus minds however. If a 15 year period were fixed, this would likely slip to 20 years and that, in my opinion, is too long.”*

45. In relation to the timing of the programme of registration, South Lanarkshire Council commented: *“No consideration appears to have been given to the Community Empowerment Bill which introduces an obligation on Local Authorities to publish a register of Common Good Assets. All land acquired within a burgh will require to be examined to identify if it is Common Good and what any related issues are e.g. alienability or not. It would seem to be, (at the point when investigation has been completed), logical to complete Land Registration for these areas.”*

46. Many of the responses to question 10 related to the availability of resource for public bodies to prepare applications for voluntary registration, and these were typically linked to responses to question 11. Several respondents questioned whether RoS would have sufficient resource to handle the volume of registrations, and two respondents<sup>12</sup> expressed concern that RoS might sacrifice quality in the interests of achieving a deadline. For instance, Scottish Land & Estates stated: *“... we need to be confident that there are sufficient resources at Registers of Scotland to ensure that the title sheets produced are accurate and that the emphasis on completion within a 10 year period does not impact upon the quality of the title sheets produced. The integrity of the Register is paramount and that must be maintained otherwise the public interest benefit in achieving completion of the Register will be undermined.”*

47. While some respondents indicated that they might wait for KIR rather than seek voluntary registration of their land, at least one respondent<sup>13</sup> indicated a strong preference for voluntary registration rather than KIR.

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<sup>12</sup> Scottish Land & Estates and Turcan Connell

<sup>13</sup> Network Rail Infrastructure

48. Local authority respondents raised several specific concerns about the expectation of registration of all public land within five years. Most local authority respondents suggested that they would be unable to provide the financial or staff resource needed from existing budgets, and several stated that they would be unlikely to submit applications for voluntary registration. The views of Glasgow City Council are noted in paragraph 38. South Lanarkshire Council asserted: *“We are unable to see how voluntary registration would serve the functions of the Council and accordingly consider that undertaking this exercise would be challengeable as ultra vires.”*

49. Broadly speaking, local authorities considered that their input into completion of the Land Register would only be realistic if funded separately. However, five respondents<sup>14</sup> expressed concerns that – even if funding were available – there might be insufficient people with the relevant skillset available for employment to enable completion within five years.

50. In addition to local authority respondents, a further six respondents<sup>15</sup> anticipated there would be a cost for proprietors whose titles were subject to voluntary or keeper-induced registration. Several respondents disagreed with the assertion in paragraph 43 of the consultation paper that KIR would not change a person’s legal rights or require the engagement of a solicitor. Several respondents suggested that the state should meet the costs incurred by the owner in taking legal advice on a title sheet compiled by the keeper under KIR.

51. Several respondents suggested that there was a case for separate public funding of completion of the Land Register. For instance, Andy Wightman commented: *“The completion of the Land Register programme is being proposed in order to meet a public policy goal that goes beyond the conventional role of the Registers of Scotland as a repository to secure and protect private interests. There is a case, therefore for some additional public funds to be voted by Parliament to achieve this end. Such a case would have to be very carefully framed and may not be feasible in the current financial climate. ... [I]t might be possible to attract funds from other parts of the public sector to assist with the land registration component.”*

### **RoS’ response**

52. The approach proposed in the consultation paper assumes that a significant proportion of the land that is held on Sasine Register titles or is unregistered will enter the Land Register through trigger-based or voluntary registration. In particular, the paper assumes that registration of the remaining public land during the proposed five-year period will take place largely as a result of voluntary registration rather than KIR. While we note the level of concern expressed by public bodies about the costs and resource implications of voluntary registration, RoS will work with public bodies to ensure that the process of voluntary registration is as efficient as possible. In

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<sup>14</sup> Falkirk Council, Highland Council, Inverclyde Council, South Lanarkshire Council and the Society of Local Authority Lawyers & Administrators

<sup>15</sup> Church of Scotland General Trustees, Response 1, Response 4, Scottish Land & Estates, Thorntons Law and Turcan Connell



particular, we note the assertion that some public bodies already have digitised, map-based asset registers and we will be happy to investigate how the use of these digital resources can support the registration process.

53. We acknowledge that the RoS operational costs of completing the Land Register (and, in particular, the costs of KIR and of any shortfall resulting from a reduction in fees for voluntary registration) will be borne by those who apply for registration, rather than by separate public funding (eg general taxation). However, as noted in the consultation paper, it is implicit in the provisions of s 110 of the 2012 Act that these costs are borne by the keeper and therefore by those who pay fees to her. We will revisit the assumptions in paragraph 41 of the consultation paper at each biennial review of registration fees, and we will take into account the outcome of the proposed pilot of KIR. However, we remain confident that the RoS costs of completion of the Land Register can be absorbed through efficiencies in the registration process rather than requiring fee increases.