

Response Type:

Normal Response

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Response Started:

Saturday, December 7, 2013 8:31:20 AM

Response Modified:

Saturday, December 7, 2013 12:05:03 PM

[Show this Page Only](#)**1. Name**

XXXXXX

2. Organisation Name:**No Response****3. Postal Address:**

XXXXXX

4. Email

XXXXXX

5. 1: Are you responding as : (please select below)

an individual (go to 2a/2b)

6. 2a: INDIVIDUALS Do you agree to your response being made available to the public (in the Scottish Government library and on the RoS website)?

Yes (go to 74 below)

7. 2b: Where confidentiality is not requested, we will make your response available to the public on the following basis (Please select ONE of the options)

Yes, make my response available, but not my name and address

8. 2c: ON BEHALF OF GROUPS OR ORGANISATIONS The name and address 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?

No

9. 3: We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in relation to this consultation exercise?

Yes

[Show this Page Only](#)**1. Question 1: Do you agree that 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?**

Yes

[Show this Page Only](#)**1. Question 2: Do you agree with the proposed change of name and terminology for this entry?**

No

Whilst I understand the need of the Keeper to streamline the process, (a) is there really a need to change the terminology? and (b) if so, can we be assured of there being no ambiguity being caused that may result in dispute?

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1. Question 3: Do you agree that a schedule in the property section is the appropriate means to reflect the cross-referral to other title sheets?

Yes

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1. Question 4: Do you consider that the "date title sheet updated to" should continue to be reflected in the title sheet and provision made in the Rules?

Yes

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1. Question 5: Do you agree that the Keeper should omit from the property section of the title sheet details of the map reference and size of a registered plot?

No

I consider the addition of an OS reference to be helpful in the identification of title where the actual subject matter or location are not always clear. I am unclear whether calculation of a plot size is necessary - I assume plot size would still require to be held somewhere in connection with the title - for example, at point of ownership change

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

Yes

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1. Question 7: Do you agree that the date of entry should no longer be included in the title sheet?

No

Unsure as to what the significance of the date of entry not being shown on the Title Sheet might have. Concern is with availability of this information to third parties (eg Scottish Assessors/ District Valuer/ Local Authority/ genuine public requirement)

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1. Question 8: Do you agree with the proposed approach for the removal of overriding interests no longer required to be entered?

No

I regret, I am unclear as to what benefit this action might have and would be concerned that it may lead to disputes

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1. Question 9: Has the reference in the property section to a deed constituting a servitude been of assistance to you?

No Response

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1. Question 10: Do you agree that the land register should not reflect information regarding occupancy rights?

Yes

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1. Question 11: Do you agree that discontinuous areas of land that are relative to each other by ownership and purpose may be grouped as a single cadastral unit?

Yes

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1. Question 12: Do you agree that the seabed should be designated as a single operational area?

No Response

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1. Question 13: Do you agree that the description of a seabed plot should comprise a verbal description, a description by reference to longitude and latitude coordinates, and a plan?

No Response

2. Question 14: Do you consider that where such information is submitted to the Keeper it should be included in the property section?

No Response

3. Question 15: Do you consider that a table of latitude and longitude coordinates should be utilised where all or part of the plot is covered by water i.e. should not be limited to seabed plots only?

No Response

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1. Question 16: Do you consider that including the plan of the individual flat as supplementary data to the title sheet is helpful?

Yes

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1. Question 17: Do you consider that including the plan of the individual area leased as supplementary data to the lease title sheet is more helpful than showing the data on the cadastral unit?

Yes

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1. Question 18: Do you agree that where an area of common ground is affected by the 25-metre rule, the whole of the common area should be treated as a separate cadastral unit?

Yes

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1. Question 19: Do you accept that where historical conveyancing does not quantify the share, and where common law rules apply, the Keeper should require specification of shares in the deed to be registered?

Yes

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1. Question 20: Do you agree that where multiple plots of land with differing uses are owned in common, the shared areas should be grouped as a single cadastral unit?

No Response

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1. Question 21: Do you agree that a list of registrable deeds together with the enactment under which they are registrable will assist you in completion of the application form?

No Response

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1. Question 22: Do you agree with this approach for supporting documents?

Yes

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1. Question 23: Do you agree that reference to an individual house plot from an approved development plan is sufficient to describe the part of the plot in terms of the conditions of registration?

No

I think that, historically, there have been a number of boundary disputes in developments where the plot shown in the development plan has been adopted to the cadastral map but where there have been variations to the boundaries of the individual plots. If the purpose of the map is accepted as indicative only rather than definitive, there is probably room for dispute resolution

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1. Question 24: Do you agree that the Keeper should issue an email to acknowledge when an application for registration is entered onto the application record?

No

I regret, I would prefer postal acknowledgement

2. Question 25: Do you agree that the provisional title number should be contained in the acknowledgement?

No Response

3. Question 26: Do you agree that the acknowledgement should also contain the other information that is currently included, namely details of the subjects, deed, parties, date of registration and application number?

No Response

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

No Response

2. Question 28: Do you agree that nothing further on requisitions is required in the Rules?

No Response

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1. Question 29: Do you agree that a period of standover of 30 days in relation to requisitions made under the Act is appropriate?

No Response

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1. Question 30: Do you agree that notification upon the acceptance, rejection or withdrawal of an application should be by electronic means only?

No Response

2. Question 31: Do you agree that the applicant should provide an email address for the granter or the granter's agent on the application form?

No Response

3. Question 32: Do you agree that where no email address is available in respect of the notification provisions relating to automatic plot registration, Keeper induced registration, prescriptive claimants or rectification, that the Keeper should notify by post to the last known address of the person?

No Response

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1. Question 33: Do you consider that in terms of section 41 the Keeper should notify only the proprietor of the plot of land registered as a result of an automatic plot registration under section 25?

No Response

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1. Question 34. Do you agree that the Keeper's policies for evidence of possession in terms of section 43(3) should be set out in guidance rather than prescribed in the Rules?

Yes

2. Question 35: Do you agree that the types of evidence set out above should be required and that guidance on the appropriate wording of affidavit evidence should be provided?

No Response

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1. Question 36: Do you agree that the requirements for evidence of notification in terms of section 43(4) should be set out in guidance rather than prescribed in the Rules?

No Response

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1. Question 37: Do you agree that notification under section 43(4) should be by recorded delivery mail in order to satisfy the Keeper that notification has taken place?

Yes

2. Question 38: Do you agree that the requirement for recorded delivery mail and a prescribed style for giving notice should be included in the Rules?

Yes

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1. Question 39: Do you agree that under section 45(1) the Keeper should only re-notify those persons already notified by the applicant under section 43(4)?

No Response

2. Question 40: Do you agree that where notification has already taken place under section 43(4)(a) or (b) then notification by the Keeper should be by mail (but not recorded delivery) to the same address?

No Response

3. Question 41: Do you agree that in terms of section 45(2) where the numbers involved could make individual notification prohibitive the Keeper should explore alternatives such as notification to a residents' association?

No Response

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1. 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?

Yes

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

No

i think in some cases the keeper should have discretion to adopt a longer period of time, say 3 months+, as I think a number of situations may prove more complicated than would fit into a strict timetable

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1. Question 44: Do you agree that draft styles should be developed for decrees of reduction and orders for rectification of documents, and that the Keeper should seek to have these styles included in the Rules of Court?

No Response

2. Question 45: Do you agree that the Keeper should publish guidance on the registration criteria for arbitral awards in advance of the designated day?

Yes

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1. Question 46: Do you agree that the advance notice form should include both the application form and the advance notice in one document?

No Response

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1. Question 47: Do you agree that a plan capable of allowing the plot of ground to be identified should be a requirement for an advance notice for a deed that will be a breakaway deed from subjects in the Sasine Register?

Yes

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1. Question 48: Do you agree that the end of the protected period is the appropriate time to remove the delineation from the cadastral map?

No Response

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1. Question 49: Would you see a benefit in any other unilateral deed being included in an Order under section 64?

No Response

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1. Question 50: Do you agree that the name of the deed used to register a fixed boundary agreement should be Shifting Boundary Agreement?

No Response

2. Question 51: Do you agree that the note in the property section of the affected title sheets should be drafted as follows? Note: The boundary between the points lettered A - B in blue on the Cadastral Map has been agreed in terms of the [Shifting Boundary Agreement] between [xxxx] and [xxxx] registered [xxxx].

No Response

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1. Question 52: Do you agree that the property section is the appropriate place to enter a caveat against the title?

No Response

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1. Question 53: Do you agree that requests to vary warranty in between registration events should be submitted on a specified form?

No Response

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

No Response

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1. Question 55: Do you agree that for warranty granted as part of a registration under section 25 or 29, there should be a statement on the title sheet to show that warranty was granted under section 74?

No Response

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1. Question 56: Do you agree that any interest rate paid on claims for compensation should be aligned to the Bank of England Base Rate?

No Response

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1. Question 57: Do you agree that the persons to be notified of a rectification should not be prescribed in the Rules?

Yes

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1. Question 58: Do you agree that the parties consenting to rectification should be capable of demonstrating that they would have title and interest to be heard in court on the issue?

Yes

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1. Question 59: Do you agree the Keeper should only consider removing a burden as a result of section 50 of the Title Conditions (Scotland) Act 2003 where she is provided with details of a manifest inaccuracy in a particular title sheet and the manner of rectification sought?

No Response

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1. Question 60: Do you consider that where realignment may not have occurred, other than in exceptional cases where matters are beyond doubt, the Keeper can only rectify where judicial determination has established that the register is inaccurate?

Yes

2. Question 61: Do you consider that where realignment may not have occurred, other than in exceptional cases where matters are beyond doubt, the Keeper can only rectify where judicial determination has established that the register is inaccurate?

No Response

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1. Question 62: In which circumstances would you need an extract with evidential status showing more than one cadastral unit at a time?

Dispute resolution?

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1. Question 63: 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?

No

I am happy to see access being continued but concerned that there could be political influence to the Keeper's independence.

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1. Question 64: Do you agree that an optional form to inform the Keeper of potential manifest inaccuracies in the land register should be prescribed in the Rules?

No

Keeper should have discretion to act on a case by case basis - standard form may not cover all circumstances

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1. Question 65: Do you agree that the Rules should prescribe only one application form?

No Response

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1. Question 66: Do you agree that the Rules should prescribe an optional form to obtain extracts of the title sheet, cadastral map or document in the archive record?

Yes

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1. Please give additional comments about any aspect of implementation of the Act and related matters here (if you have any further additional comments then please email consultations@ros.gov.uk):

I am a bit concerned that I have not seen more publicity of this new act or the implications it might have to the ordinary person other than through the Scottish Government Website or via professional journals. Although this is a complex subject to put across in a public consultation, I have found completion of this questionnaire to be difficult and often felt like intended for a specific audience.