

Registers of Scotland

Completion of the Land Register

Consultation Response on behalf of East Ayrshire Council

As at 16 June 2017

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

Closure of the Sasines Register to Standard Securities would not impact directly on local authorities however would increase the legal expenses incurred by applicants for grant assistance i.e. Kilmarnock Townscape Heritage Initiative, Cumnock Area Regeneration Scheme, West of Scotland Loan Fund, Empty Homes Loan Fund etc., which may impact adversely on such schemes.

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

Yes, although the fee is a nominal element of the increased legal fees incurred as detailed above.

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?

Introduction on a phased basis could lead to inequality across the country; nationwide introduction would seem more equitable although it would be necessary to ensure that the Keeper has adequate resources in place to deal with the increased volumes of applications.

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?

Closing the Sasines Register to certain deeds granted by local authorities e.g. Deeds of Conditions/Real Burdens, Notices of Title etc. - would bring a substantial number of properties into the Land Register and, although authorities would incur additional costs in routine transactions i.e. Right to Buy sales, it would allow authorities to benefit from the waiver of the registration dues.

The inclusion of other types of deeds may present difficulties for local authorities e.g. Corrective Dispositions, as owners may be less willing to co-operate with local authorities who require to undertake corrective conveyancing to facilitate Right to Buy sales etc.

Closing the Sasines Register to Notices of Payment of Improvement/Repairs Grants would incur additional legal expenses for applicants, many of whom are applying for grants for disabled adaptations and the inclusion of Charging Orders, Tree Preservation Orders, Maintenance Orders (in terms of the Housing (Scotland) Act 2006) etc. would disadvantage the owners of affected properties and may in fact impede an authority's ability to registration such charges .

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

Waiving the registration fee would lessen the impact on local authorities and affected owners, given the additional legal fees incurred in registered their title.

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?

Not necessarily, as there may be instances where the Keeper would wish to reject a voluntary registration application i.e. vexatious applications.

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

The registration fee for local authorities and other public bodies seeking to comply with the requirement to register all of their land within 5 years should be waived, given the considerable resource and revenue costs which local authorities will be required to bear e.g. examination of title including identifying all alienations, plotting the residue of titles, searches etc.

It would seem more equitable for the Keeper to identify – and be reimbursed – the costs, rather than the onus being placed on public bodies to do so. In particular, a 10% reduction is insignificant when dealing with the preparation required to register larger/higher value titles e.g. commercial developments, residues of larger housing titles etc.

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?

Yes, to enable the practical and legal issues arising from the approach to be identified and addressed.

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

The inclusion of local authority research areas would bring large areas of land into the Land Register so reducing the cost burden on local authorities in complying with the requirement to register all land within 5 years.

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

No, the imposition of the revenue and resource burden which will be placed on public bodies and local authorities in the current economic climate will be considerable and will require the allocation of resources which may impact upon the delivery of other services.

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

The onus appears to be on local authorities to seek to recover their costs in terms on the block grant. Although registration fees will be a minor element of such costs, they could still provide considerable for larger titles, commercial developments; the most equitable approach would be for the Keeper to waive/fund public bodies registration costs to offset some of the costs of complying with the Ministers direction.