

KIR Consultation Survey Response

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

Yes

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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)

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

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Q6: On behalf of groups or organisationsThe 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?

Respondent skipped this question

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

Yes

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

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?

Yes

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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

Comment: As a solicitor dealing regularly with first land registrations in a primarily rural area. The issue that is encountered on a regular basis is the numerous inaccuracies in the OS map which is the basis of the cadastral plan. If a thorough examination of titles including a site visit by a suitable surveyor is not contemplated owners may find that their title does not include the occupied extent which can be the result of prior registrations not correctly identifying title boundaries due to OS errors. This is not an isolated event and can occur certainly in South west Scotland in up to 10-15 % of first land registrations. For that reason if an inspection of the property on the ground is not being undertaken it should be identified so that a proper investigation can be carried out thereafter is the Keeper is simply relying on registering a unit identified on the OS as the title extent.

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Q11: Q4. Do you agree with the Keeper's general approach to the KIR mapping of legal extent?
No

Comment: If the Keeper is to induce land registration he owes a duty to the owner of that property to get it right. It must be correct on the ground as well as on the title sheet. Bearing in mind my comments to the previous question as to the accuracy of the OS map which is the basis of the title registration and the number of issues which we already have at clients expense to employ a surveyor to correct, I am doubtful that the keeper will be willing to incur the cost of individually inspecting properties including remedial conveyancing in relation to already existing titles where title has relied upon OS maps which have proved to be completely wrong and compete with a title which the Keeper intends to induce registration to.

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Q12: Q5. Do you agree with the keeper's proposed approach to incorporeal pertinents?
No

Comment: The keeper may have to clarify with the owner whether they are aware of any prescriptive servitudes that might currently exist in respect of a property so that this could be used as an aide memoire for any solicitor subsequently dealing with the property to ensure that these are either disclosed or declarations obtained to ensure prescriptive use.

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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

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

Yes where title may be held under docquet transfers and the beneficiaries have not instructed completion of the title in the sasine register due to expense. For example as a disposition now induces a first land registration which if there are problems can result in considerable costs beneficiaries may simply opt to register their docquet transfer in the Books of C+S for £10.

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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?
No

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?

No I consider that the keeper ought to treat these induced registrations in the same way as others if the text of the burdens is available in other adjoining titles.

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Q17: Q10. Are you content with how we plan to communicate KIR?
No

Comment: The Keeper ought to give advanced notice to owners that he is going to induce the registration and mediate at all stages with the owner including providing a copy of the registered title to the owner free of charge so that if any issues arise they can be resolved sooner rather than later

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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

Comment: If on KIR there are issues which require to be amended on the title sheet on a subsequent dealing caused by the induced registration this should be done at no expense to either the seller or the new purchaser