

## 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*

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**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:** This seems a sensible approach. We comment generally though that we are concerned about whether there will be sufficient staff with the necessary level of experience to carry out this task particularly in light of the other obligations on the Keeper under the 2012 Act. We are also concerned that these proposals are driven by the political objective of completing the Land Register rather than by the desire to create a useful end product which will enable property transactions in Scotland to be carried out simply and quickly. Under these proposals a person acquiring a property with a KIR title would still need to look at the underlying Sasine deeds to ensure the extent, burdens and pertinents are correctly registered which potentially defeats the purpose of land registration.

**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:** Again, this seems a sensible approach

**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:** We think land that has entered the land register through KIR should be identified differently from other land and would welcome both a note in the property section and a separate field marking the date of KIR so that anyone acquiring the land subsequently is aware that additional checks may be required. However ideally we don't want a two tier system with KIR titles being perceived as inferior to other titles. Could the Keeper engage with the owner of the land (where that person can be found) and give them an opportunity to check the information before the title sheet is created? If the owner can be engaged in the process possibly even certifying information then potentially the note in the property section can be removed?

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

Yes

**Comment:** We agree with the approach of starting with properties where there are unlikely to be boundary issues and where issues do arise investigating them thoroughly rather than relying on the 'carve out' from the warranty scheme. Again we recommend that the Keeper engages with the owner to try to establish the boundaries at the time of KIR rather than the title having to be rectified at a later date. We appreciate that the Keeper will not want the process of KIR held up whilst waiting for owners to respond but perhaps the owner could be given a fixed period of, say, 28 days to reply.

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

Yes

**Comment:** Generally we agree with the proposed approach. We wonder how the Keeper will be able to establish if incorporeal pertinents have been extinguished without consulting with the owner of the property so again we think involvement with the owner would be useful before the title is registered rather than the title sheet being rectified after KIR. We note the proposed approach in paragraph 36 (iii) and wonder if this approach could be adopted by applicants where the description of a right in a prior deed is unclear?

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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?**

Dissolved companies.

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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:** We consider that there should be as few differences as possible between a registered title created following an application and a KIR. There are two advantages to a land registered title over a Sasine title- the first is that the Land Register is map based and the second is that all of the information relating to the title is set out in one place- in the title sheet. We therefore consider that the title sheet should set out details of the burdens. We agree that it can be useful to have a link to the deed which created the burden for further clarification and in fact this would be useful in all title sheets but we think the burden should be set out in full in the title sheet as well. If the Keeper proceeds with the link approach the deeds must form part of the title sheet and be available at no extra cost.

**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?**

As mentioned in answer to question 8 we would prefer consistency between application triggered registrations and KIR.

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

Yes

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**Comment:** As mentioned we think that the Keeper should make contact with the owner pre-KIR (where the owner can be found) to enable the title sheet to be as accurate as possible.

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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:** We think this will be essential.