

## 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*

### PAGE 5

**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

### PAGE 16

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

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**Comment:** SOLAR has no particular view on this, given the Registers' confirmation to SOLAR that KIR will not apply to public sector land. Please note, all responses given here are subject to that confirmation, and SOLAR's view might otherwise differ were that not the case. However, SOLAR does believe that the proposed approach requires a suitable high profile and targeted publicity of the commencement of KIR prior to its operational commencement.

**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:** SOLAR has no particular view on this.

**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

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**Comment:** Yes, SOLAR strongly believes that land which has been the subject of KIR should be clearly identified, especially given the approach to prescription. However, it may be that once the success of KIR has been proven, and conveyancing practice around the same has been established, such separate identification may no longer be required.

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

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**Comment:** SOLAR has no particular view, however we wonder whether some owners/heritable creditors may wish to be given the opportunity to complete a voluntary registration prior to Keeper Induced Registration taking place (even though there might be a fee involved), in order to be in control of the process. One possibility might be that when the Keeper is ready to register a property, she should give, say, 21 days notice to the proprietor of her intention to do so together with a copy of the proposed title sheet. Any issues could be raised (such as on boundaries/legal extent) during the 21 day period and corrected before registration rather than after. Any post KIR communication to proprietors should not only include information on how to access their title sheet but information as to how to complain about inaccuracies in it. Linked to this, would it not be advisable that if the Keeper is minded to limit or exclude indemnity that she first seek to contact the owner/heritable creditor to advise them of this and establish whether or not the owner is able to assist to avoid such an outcome?

### PAGE 24

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

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**Comment:** SOLAR has no particular view on this.

### PAGE 25

**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

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**Comment:** SOLAR has no particular view on this.

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

Whilst Keeper Induced Registration is not intended to apply to public sector land, SOLAR would, naturally, comment that if it did then there would be a potentially large volume of properties for local authorities where the last recorded title was held by a predecessor authority, prior to the creation of the unitary authorities, and indeed for certain royal burghs there will be no recorded title.

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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:** Yes, the current practice of setting out at length the full text of any deeds allows quick and easy identification of the nature and potential impact of the encumbrance in question, without having to incur additional time/cost. SOLAR feels this principle should be the same for KIR properties, especially if we are to have a system then enables maximum transparency over land ownership and rights in connection with land. It would also be a change to current accepted conveyancing practice, with no foreseeable benefits for the public/conveyancing profession, and in fact might be more of an obstacle for members of the public.

**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, as for the reasons given in the response to the previous question. Hyperlinks will obviously only work in electronic formats and not in hard copy documents. As such, the same principle applies, namely that all relevant information for the plot of land in question should be contained within that title sheet.

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

No

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**Comment:** There must be substantial media coverage before KIR is operational to ensure the public fully understand the purpose behind the same. The Keeper must implement a full public education programme to avoid unnecessary worry to individuals who may not fully understand the issues or impact of KIR on their property. There must also be thought given to potential fraud, and the protection of vulnerable citizens who may be the subject of targeted mortgage fraud and the like on the back of a widespread introduction of KIR that is not suitably planned/managed. SOLAR also wonders if owners/heritable creditors may wish to be advised with greater certainty when their property/security asset might be subject of KIR. In addition, even though KIR is not to apply to public sector land, in the event of inaccuracies then local authorities would also wish to be advised of the progress of KIR in their areas, so they may have the opportunity to verify their own land has not incorrectly been included in a KIR, for instance road verges or other public realm. Other public bodies/large landowners may also have the same concerns, and the Keeper should also introduce an accessible and up to date method of reporting progress with KIR where registered extents can be checked free of charge, for those organisations who would wish to do so. If there is a concern about such information being made available free of charge, perhaps it could be made available free for a time limited period. Please also see our comments at Question 4 above.

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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:** SOLAR agrees that it would, especially given the rules on prescription. There should also be clarity around the indemnity that the Keeper should be giving all parties who are prejudiced through inaccuracies in a KIR, especially given an owner/heritable creditor has not chosen to be the subject of KIR.