

## **RESPONSE TO THE REGISTERS OF SCOTLAND'S CONSULTATION PAPER ON COMPLETION OF THE LAND REGISTER**

I welcome the opportunity to contribute to the Registers of Scotland's consultation on completion of the Land Register. I see this as an exciting opportunity for Scotland.

Having been involved in the preparatory work leading up to the enactment of The Land Registration etc. (Scotland) Act 2012 ("the 2012 Act") since consideration of reform proposals by the Scottish Law Commission, I fully accept and support the benefits which completing the Land Register will bring. There are, however, potential challenges for Registers of Scotland ("RoS").

My answers to the questions posed are as follows:-

**Question 1: Do you agree that Scottish Ministers should close the Sasine Register to Standard Securities?**

Yes

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

Yes. An alternative would, however, be to reduce the voluntary registration cost or waive the fee for the Standard Security.

**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?**

I am of the opinion that there are benefits of introducing the closure across Scotland at the one time.

**Question 4: What deeds do you consider is appropriate to close the Sasine Register to and so require voluntary registration of the title in order to give legal effect to the deed?**

I would suggest that the Registers of Sasines should remain open in the case of deeds where the owner of the property, or its tenant under a registered lease, is not a party to the deed and that, accordingly, registration should not be triggered by deeds such as Tree Preservation Orders and the like. I suggest that this be subject to review however as completion progresses.

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

Yes.

**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?**

Yes. Such a right to refuse is not seen as being conducive to the overall aim of completing the Land Register.

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

In general, I support the concept of Keeper-induced registration and that RoS staff undertake registration of properties where same is economically possible in order to accelerate the process. I am of the view that there is also considerable merit in encouraging as many proprietors as possible to undertake voluntary registration of their title. However, in order to do so, I suggest that a higher discount than 10% will be necessary. I would favour a minimum of 25% discount in such circumstances. The benefits of an early completion of the Land Register must surely outweigh financial gain in the short term. I also believe that the Keeper should consider negotiating an attractively-discounted block fee with landowners of multiple properties such as the Church of Scotland and churches of other denominations..

**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?**

The approach seems sensible but should be kept under review.

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

Yes. It might be useful to “trial” situations where properties are held “off register” - such as common good land held by Local Authorities and Churchyards where the local authority title is an Act of Parliament - and also other properties where ownership may be difficult to resolve, e.g., private roads.

I also believe that the Keeper should be open to the idea that collaboration with other organisations and, indeed, private companies, might assist her in achieving the goal of completing the Land Register. There are other countries that have had recent experience of digitising their Registers and, at the same time, introducing other related reforms such as a national database of all other non-title information relative to properties. See [www.ambita.com](http://www.ambita.com) where details of the work done by the Norwegian Land Information Company can be accessed. Such a database would be based on the Unique Property Reference Numbers introduced as part of the Government's Address Database project. In my view, a collaborative approach with Local Authorities, Ordnance Survey and other stakeholders such as The Law Society of Scotland, the Royal Institution of Chartered Surveyors and the Council of Mortgage Lenders would lead to a quantum leap forward and would place Scotland in a very advantageous position in the eyes of potential inward investors who would see Scotland as being an example of a modern 21<sup>st</sup> Century economy where the Land Register and associated National Land and Property Information Database is fully transparent and informative for users.

**Questions 10 – 12:** These do not appear to exist.

**Question 13:** Do you agree with the proposed approach to completion?

The 10 year timeframe for completion set by Scottish Ministers is ambitious but may well be achievable if the Keeper has received early positive feedback from major landowners and public utilities. Perhaps a 15 year period would be more realistic so long as there were agreed benchmarks on performance against the plan. A 10 year timetable will focus minds however. If a 15 year period were fixed, this would likely slip to 20 years and that, in my opinion, is

too long. We need to invest now for the future. Not until we have a comprehensive cadastral map will we be able to obtain the full benefits introduced by the 2012 Act. We must seize the opportunity for the benefit of our citizens and landowners alike. There is a great opportunity for Scotland to have one of the leading land registrations systems in the world – one that is fully digitised. In my opinion, the approach is otherwise sensible.

**Question 14: Have you any views on our proposals for funding the completion of the Land Register?**

It might be worth giving consideration to some form of financial incentive to proprietors where there is a possibility of Keeper-induced registration.