

**Highlands and Islands Enterprise Response to Registers of Scotland Public Consultation (July 2014):**  
**Completion of the Land Register**

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

YES

HIE is supportive, in principle, with the closure of the Sasine Register to standard securities as a statutory lever for completion.

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

YES

It would seem unfair to charge a voluntary registration fee in addition to the fee which applies to the registration of the Standard Security. Borrowers and lenders may incur additional legal fees from their own solicitors in relation to the voluntary registration and it seems unreasonable to impose additional costs by way of a voluntary registration fee.

**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?**

HIE is of the view that the closure of the Sasine Register to standard securities should be implemented across Scotland at one time to ensure consistency and to avoid any confusion about where and when the changes apply.

**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?**

HIE considers that Registers of Scotland should close the Sasine Register to all deeds apart from discharges of standard securities, deeds of restriction in relation to standard securities and other deeds of a technical nature where definitions of burdened and benefited properties are not required. This will act as a statutory lever to completion of the Land Register. It would be unreasonable to close the Sasine Register to discharges and deeds of restriction as these operate to effectively delete pre-existing securities from the register and the costs involved in voluntary registration are not justified in such circumstances.

HIE is of the view that deeds of servitude and deeds of condition should induce a voluntary registration, as these deeds need to define benefited and burdened properties and it is best that such definitions are noted in the Land Register.

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

YES – for the reasons detailed at Question 2 above.

**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?**

NO

HIE is of the view that the Keeper should have the power to refuse a request for voluntary registration so long as this is exercised reasonably. The Keeper should be mindful of the pressurised timescale for completion to take place when exercising this power and only do this when absolutely necessary in order to guarantee the accuracy of the Register.

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

While HIE's preference would be for no fee to apply to associated voluntary registrations, HIE agree that, at the very least, a reduced fee should be applied to voluntary registrations; however this reduction should be higher, for example 40%, to encourage voluntary registration to take place.

**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

HIE agrees with the proposed approach to piloting KIR so long as where KIR is taking place, there is dialogue between the Keeper and the owner of the land and owners are consulted prior to the transfer taking place. HIE also considers that where KIR is taking place, the Keeper should ensure some concession on legal agents' fees.

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

HIE would be willing to discuss the possibility of the organisation being included in the pilot. HIE currently has a number of large landholdings in the Sasine Register and has the public remit to ensure, where appropriate, that the land which it holds can be made use of by others (including by sale or lease). Having neatly presented titles all registered in the Land Register would make it much easier for HIE to communicate the extent of its land ownership to potential users/buyers of its land.

HIE notes from the Keeper's consultation document that the Registers of Scotland envisages having service level agreements in place between public bodies and the RoS to enable completion to take place. HIE would welcome further information on what these service level agreements will provide.

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

YES

HIE is broadly in agreement with the proposed approach to completion but notes that in order for the ten year time frame to be met, it is likely that KIR will require to be expedited at some stage in the process.

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

HIE would be keen to keep any costs to be incurred by our clients to be kept to a minimum. While greater use of KIR may assist with this, HIE would be keen to emphasise that businesses and land owners should not be placed in a position whereby they incur solicitors' fees where rectification of the Register due to error is required. HIE would welcome clarification as to the nature of the "extra judicial expenses" which the Keeper would cover where rectifications are required.