

Voluntary Registration: Where are we now?



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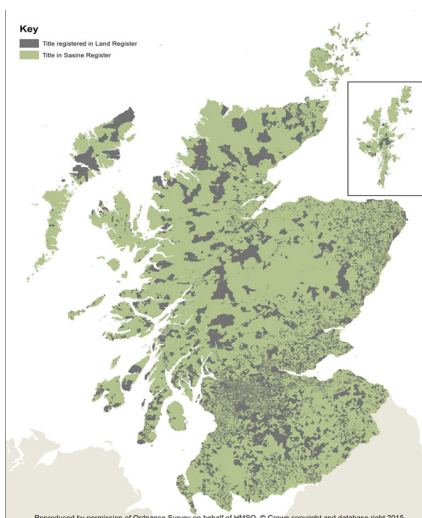
The Keeper of the Registers of Scotland has been invited by the Scottish Ministers to complete the Land Register of Scotland by 2024, with a target for all public land to be registered by 2019 and all remaining (private) land by 2024. One way that Registers of Scotland hope to achieve this goal is by encouraging landowners to undertake voluntary registration of their title in the Land Register.

Voluntary registration (being registration without a deed) is not a new mechanism but since the Land Registration etc. (Scotland) Act 2012 came into force in December 2014, it has become a much simpler and smoother process for landowners to undertake.

Given the Government interest in obtaining transparency in landownership in Scotland, registration in the Land Register is of particular importance. As the Land Register is a map based system (in contrast to the older Sasine Register which is deeds based), it is easier to search and identify owners of land.

So how is voluntary registration faring, almost 2 years on?

At present just under 30% of land in Scotland is registered in the Land Register. The map below shows (in black) the approximate extent and location of registered land. A large part of Scotland is not registered and title to most of this land will still be recorded in the Sasine register.



After an initial surge in interest in voluntary registration, and support from various landowner bodies interest from landowners began to wane, due to a perception that the registration process was very time consuming and the associated financial burden.

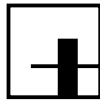
Part of this concern on the behalf of landowners came as a result of the processes and policies imposed by Registers of Scotland regarding mapping and rights which made it very difficult for landowners to progress their voluntary registration applications quickly and smoothly. Due to a recent change in policy at Registers, these concerns have now (largely) fallen away. However, the requirement to certify title (even where the Registers' own plans assistance service is used) still necessitates some level of solicitor involvement and consequential cost to the landowner.

But what are the benefits?

It is clear that undertaking voluntary registration does have benefit for landowners.

Increasingly, landowners are faced with queries from neighbours or interested parties looking to acquire land or ascertain who owns it. A registered title makes this process quicker and simpler and saves lengthy title examination or disputes over ownership where deeds are unclear. This is particularly relevant for large properties with historical title deeds, many of which have poor quality/missing plans or rely on basic verbal descriptions of land owned. A registered title also makes it easier

Source: Registers of Scotland 2016



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to prove to grant giving and other bodies the extent of landholdings and will pave the way for a smoother process in any re-financing that may be undertaken.

By undertaking registration, landowners will also have certainty on their property boundaries and the rights and obligations which affect their property. Additionally, many charities and those in the public eye will want to be seen to be transparent and open about the extent of their land ownership.

Certainty on title is also relevant and helpful for property management and where new staff or a younger generation, who may not have the historical knowledge of the title and boundaries, are either taking over the running of the property, or steps are being put in place for them to do so. Landowners and out-going managers who wish to ensure they are passing on a well-run and organised property are increasingly turning to voluntary registration to help achieve this. Additionally, landowners seeking to undertake development on their property may find it is more attractive to developers if the title is registered.

A clear title plan will also be useful where land is being managed by an independent third party (particularly one who is new to the job) and who may be unfamiliar with the title. Land managers can use the title plan as a starting point for their usual land management plans which can be adapted to show relevant information such as leased areas or infrastructure. Clarity on the title boundary is vital for such management.

Finally, Registers of Scotland are continuing to offer a 25% discount on registration dues to landowners who undertake the process.

Of course, the more traditional avenues to registration still exist such as transfer or a grant of a standard security or long lease but these may not be appropriate in all cases, nor will they necessarily cover the whole of a title. Keeper Induced Registration (KIR), which is now commencing, will also permit Registers to unilaterally register property, without the landowner's involvement. Voluntary registration still allows a landowner a greater degree of control over timings and the process than these other options.

Our Charities Team

Our charities team is well known for providing bespoke, high quality advice to our clients. With an understanding of the specific challenges faced and the different regulatory regimes under which they work, we draw on experience and expertise from across the business to create a multidisciplinary team which provides quality, rounded and incisive legal advice.

In our regular bulletins, we aim to provide key information about issues affecting the charity sector, as well as commentary and guidance on new and existing legislation.

If you are considering voluntary registration and have initial queries, please do not hesitate to contact a member of the Charities Team or your normal Shepherd and Wedderburn contact.



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