

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
NOT FOR PUBLICATION OR BROADCAST
BEFORE 0001 HOURS 26 FEBRUARY 2010

UPDATING SCOTLAND'S LAND REGISTRATION SYSTEM

The Scottish Law Commission today publishes its Report on Land Registration.

An efficient system of dealing with land titles is essential to the functioning of a modern economy. Without such a system, land transactions, such as sales and securities, are difficult and expensive. This is true of all types of land, including the residential, commercial and agricultural sectors. The basis of the current law is the Land Registration (Scotland) Act 1979, which introduced a radically new system of title registration, involving the creation of a new register, the Land Register. Today about 60% of titles in Scotland are in the Land Register. The new system has been a great improvement over the old Register of Sasines (set up in 1617), but unsurprisingly the legislation was not free from shortcomings. The experience of more than a quarter of a century has shown where the problem areas lie.

In carrying out its comprehensive review of the legislation, and in devising solutions to problems, the Commission has received generous support from the Department of the Registers of Scotland.

Some highlights of the Commission's recommendations: -

- Acceleration of the process of getting all land in Scotland into the new Register. The objective is 100% coverage.
- The law should be changed to allow all conveyancing documents to be in electronic form.
- New rules to minimise delays in the registration process.
- The current law often places obstacles in the way of rectifying the Register even though it can be demonstrated that there is an inaccuracy. The recommendations would remove those obstacles.
- Better protection (by the use of "advance notices") for buyers against last-minute adverse entries affecting the title.

- A new system for ensuring that buyers get a good title to common areas in new housing developments.
- New rules about the law of "prescriptive possession" to ensure that long-standing registered rights are not capable of being challenged.
- New rules about the registering of claims to seemingly ownerless land.

Professor George Gretton, who has been the lead Commissioner on this project, said:

"Land Registration law affects every square inch of Scotland, from Unst to the Rinns of Galloway. The 1979 Act introduced a new system, much superior to the old Register of Sasines. As a result, it is now much easier than it used to be to find out who owns a property, what its boundaries are, and what rights over the property may be held by neighbours, by banks or by others. And the validity of titles in the Land Register is normally guaranteed, unlike titles in the Register of Sasines. But it is hardly surprising that such a revolutionary change did not get everything 100% right. We have reviewed the problems that have emerged, we have consulted extensively, and we have studied the land registration systems of other countries. Our recommendations build on the achievements of the 1979 Act. We believe that once our recommendations have been enacted, Scotland will have one of the world's best systems of land registration law."

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lord Drummond Young, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Professor George L Gretton, Patrick Layden QC TD, and Professor Hector L MacQueen. The Chief Executive is Malcolm McMillan.

2. Further information can be obtained by contacting John Dods, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gov.uk).

3. The paper may also be viewed on our website at www.scotlawcom.gov.uk or purchased from TSO (www.tsoshop.co.uk).