

# Voluntary Land Registration.

For the rural sector

How Morton Fraser can help



# Legislative Context

In 2014, following significant review and reform, Land Registration law was updated in Scotland. A new legislative framework set out in the Land Registration etc. (Scotland) Act 2012 came into force on 8 December 2014. One of the principal aims behind that Act is to enable completion of the Land Register.

The Scottish Ministers are committed to this and have invited the Keeper of the Registers of Scotland to complete the Land Register within ten years. This means that title to all land in Scotland is to be registered in the plan based Land Register by 2024. To ensure this timescale is met, the Keeper is undertaking "Keeper Induced Registration" (KIR) whereby properties are to be directly registered by her, with little or no consultation with affected proprietors. This process of KIR commenced on 24 January 2017, with over 1,300 properties registered by the following month and the process is continuing. The current focus of KIR is on urban and residential property, but as this work is completed the focus is expected to shift to rural property.

As an alternative to KIR, the legislation provides individual land owners with the option of voluntarily registering their property and there is therefore an opportunity to initiate and control this process yourself.



# The benefits of Voluntary Registration

Having a Land Registered title provides greater certainty about the extent of the title and the rights and burdens which affect it. The end result is a digital Title Sheet which has, as one of its constituent parts, an accurate plan of the land in question: whereas titles in the historic Sasine Register often have unclear - sometimes barely legible - title descriptions and sometimes no underlying title plan.

Given that it is intended that every landholding in Scotland is to be entered onto the Land Register by 2024, by choosing to voluntarily register your property now, you will be in control of the registration process and will be better placed to ensure that your title boundaries are correct. This will assist in protecting against encroachment or other title issues in the future. Property rights acquired through prescription (for instance, a necessary right of access which has been acquired through long use, but never formalised, or perhaps the right to use an important water supply) would likely not be carried forward in KIR and form part of the registered title. The Registers of Scotland would have no knowledge of the existence of such property rights, whereas you have the opportunity to include these parts if you proceed down the Voluntary Registration route.

Voluntary Registration may also bring to light potential title issues which can be dealt with as part of the registration process, rather than at a critical point in a subsequent sale or development.

Other rights which can carry their own title, such as salmon fishing, are not currently tabled for KIR. However, the Keeper will accept applications for Voluntary Registration of such rights, thus ensuring that these rights, which are usually of critical importance to a proprietor are carried across to the Land Register.



# Our approach

We view the process of Voluntary Registration as comprising three stages:

Planning	<ul style="list-style-type: none"><li>• Meet with you and discuss your preferred means of working, priorities and timescales to produce an agreed plan to submit your property(ies) for Voluntary Registration.</li><li>• Review the titles you have available, consider what might be missing and, if possible, obtain copies of these from Registers of Scotland.</li></ul>
Scoping	<ul style="list-style-type: none"><li>• Assess the work involved and order Pre-Registration Reports to inform this.</li><li>• Propose a fixed price quote for the property to be Land Registered - the Execution stage - including our fee, VAT and necessary outlays, with registration dues payable to the Land Register based on your estimate of valuation.</li></ul>
Execution	<ul style="list-style-type: none"><li>• Examine titles, prepare Land Registration Application Forms and, after necessary checks with you, submit to Land Register.</li><li>• Keep you updated throughout the process.</li><li>• Liaise with Registers of Scotland as to progress towards completion of the registration.</li></ul>

**Planning** ensures the work undertaken by us meets your bespoke requirements.

**Scoping** identifies issues at an early stage to enable more accurate costing of the Execution stage, as well as informing timing.

**Execution** in accordance with an agreed project plan will ensure we meet your objectives. More details of how we approach Voluntary Registration in practice are given in the "More Details" insert.

# Our team and experience

Our highly experienced rural property Voluntary Land Registration team is headed by James Rust (described in Legal 500 as "excellent" and Chambers as "outstanding"). James is a well regarded and experienced partner specialising in agricultural and rural property work and is an accredited specialist in Agricultural Law. James is supported by Linsey Barclay-Smith, Partner (described in Legal 500 as "determined and imaginative"), who has considerable experience advising on a broad range of rural property matters and is also an accredited specialist in Agricultural Law.

Our team of specialist rural lawyers also includes Gail Watt, Senior Associate (described in Legal 500 as "extremely professional") and Matthew Barclay, Senior Solicitor, who has broad experience in the voluntary registration of rural property having completed numerous applications on behalf of both private and public sector clients. The team can also provide appropriate input when crofting or other agricultural expertise is required.

The composition of our team comprises a range of grades of lawyers which allows appropriate gearing of work and cost efficiencies.

More generally, Morton Fraser are also involved in Voluntary Registration projects for a number of public sector clients such as Scottish Government (urban and rural estates), National Records of Scotland, the Met Office, the Ministry of Defence, the Crown Office & Procurator Fiscal Service, Scottish Natural Heritage, Eyemouth Harbour Trust and Scottish Prison Service. We have worked on applications for all types of properties - including smallholdings, farms, crofts, large landed estates, high profile public buildings, salmon fishing rights and foreshore claims.

We believe our degree of experience in this area is unrivalled and means we can work efficiently and cost effectively.



# Our pricing

We undertake the work through our own resources, with the appropriate grade of staff allocated to ensure a cost effective service.

**Planning Stage:** We will meet with you in our Edinburgh or Glasgow office to review your titles in person and discuss your particular requirements in order to provide a clear fixed cost for the Scoping stage. We make no charge for this initial meeting, which will take approximately one hour.

**Scoping Stage:** As part of the Scoping stage we shall outline the necessary outlays which will be incurred, such as the costs incurred for obtaining copies of any missing deeds which may be required and pre-registration reports. We then provide a fixed price quote for the Execution stage.

**Execution Stage:** Pricing is generally assessed based on the number of constituent parts to the title, split offs from the title deeds containing title conditions and any Plans Report or other known issues (see More Details insert for more information as to these factors). Registration dues are discounted by 25% for Voluntary Registration Applications submitted prior to March 2019.

The fee estimate which we will provide you with will cover the voluntary registration of your title as it currently stands. In the event you require us to carry out work beyond the scope of the voluntary registration, such as remedial conveyancing or assisting in boundary/neighbour disputes, then that additional work will require to be scoped and charged for separately. Again, we would wish to be as clear as possible on the likely costs involved here and a cost estimate can be provided on a case by case basis.



# Meet our team



**MATTHEW BARCLAY**  
Partner  
0131 247 1079  
Matthew.barclay@morton-fraser.com



**GAIL WATT**  
Legal Director  
0131 247 3178  
Gail.watt@morton-fraser.com



**ALISTAIR ANDERSON**  
Consultant  
0131 247 1329  
Alistair.anderson@morton-fraser.com



**MARTIN MINTON**  
Senior Solicitor  
0141 274 1139  
Martin.minton@morton-fraser.com

# THANK YOU.



Morton Fraser is a growing Scottish independent law firm, delivering clear advice to businesses, the public sector, individuals and families.

For any of these services please contact us.

EDINBURGH  
0131 247 1000

GLASGOW  
0141 274 1100

[INFO@MORTON-FRASER.COM](mailto:INFO@MORTON-FRASER.COM)

[www.morton-fraser.com](http://www.morton-fraser.com)

The contents of this document are for information only and are not intended to be construed as legal advice and should not be treated as a substitute for specific advice. Morton Fraser accepts no responsibility for the content of any third party website to which this document refers. Morton Fraser LLP is authorised and regulated by the Financial Conduct Authority.