

REVIEW OF CONSULTATION RESPONSES

LAND REGISTRY LEGISLATION

April 2023

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Introduction

In October 2023 the Central Registry undertook a consultation on some changes to Land Registry legislation and practices. The consultation ran for 6 weeks and 47 responses were received. 8 responses were from organisations and the remainder from individuals.

A copy of the original consultation can be viewed here:-

<https://consult.gov.im/economic-development/land-registry-legislation/>





Section 1 Responses

The first section of consultation proposed some changes to legislation in relation to possessory title. Please note questions 1-3 related to respondent information.

Q4: Do you agree with the overall intention to make it more difficult to obtain possessory title to registered land?

Total Responding the question	43	Percentage
Yes	30	70%
No	13	30%

Q5: Do you agree that the period of possession required to establish adverse possession should remain at 21 years?

Total Responding the question	43	Percentage
Yes	35	81%
No	8	19%

Q6: Do you think that any element of public advertisement of possessory title applications is necessary?

Total Responding the question	44	Percentage
Yes	40	91%
No	4	9%

Q7: Where there is a contested application should there be statutory exceptions as in the English and Welsh legislation or would it be satisfactory that either the Registrar or the Land Commissioner could have the power to make a decision to award possessory title in exceptional circumstances?

Total Responding the question	45	Percentage
Statutory exemptions	20	44%
Registrar/Land Commissioner	23	51%
Neither	2	5%



General Comments Made:

Some interesting general comments were made such as the suggestion that registration of all land should be made compulsory. It was also suggested by one advocate that we should consider whether changes to the law on adverse possession could apply to both registered and unregistered land.

In relation to the 21 year period most respondents suggested this should not be reduced. 2 respondents commented that the 21 year period should immediately precede the possessory title application.



Section One Conclusion:-

Public feedback was generally positive in relation to making adverse possession more difficult in relation to registered land. More clarity was requested about how contested applications would be determined and also in relation to any appeal process available. Public Advertisement of applications was also recommended.



Section 2 Responses

This section contained questions relating to the addition of additional triggers for compulsory first registration.

Q8: Do you agree that it is advisable to widen triggers for first registration in order to increase the amount of land on the Isle of Man that is registered?

Total Responding the question	44	Percentage
Yes	29	66%
No	15	34%

Q9: Do you agree that it is reasonable to add these additional triggers to registration in order to increase the amount of land registered on the Island?

Total Responding the question	44	Percentage
Yes	26	59%
No	18	41%

Q10: In relation to registration of the freehold of apartment blocks, it is suggested that one solution is a form of Land Registry induced registration to create a provisional freehold title which then can be upgraded voluntarily by the Landlord. Do you think this would be desirable?

Total Responding the question	40	Percentage
Yes	20	50%
No	20	50%

Q11: It is proposed that an additional fee is charged when processing an application to register a lease out of an unregistered freehold title? Do you think this would be desirable?

Total Responding the question	42	Percentage
Yes	14	33%
No	28	67%

Q12: Do you think it would be advisable to reduce the length of lease triggering first registration 7 years to follow the law in England and Wales.? This would generally affect commercial property more than residential.

Total Responding the question	45	Percentage
Yes	20	44%
No	25	56%

Q13: Do you think it is desirable to trigger registration of farmland on receipt of Agricultural Payments?

Total Responding the question	45	Percentage
Yes	21	47%
No	24	53%

Q14: Should the obligation proposed in Q13 also apply in the situation where a tenant farmer is receiving Agricultural Payments?

Total Responding the question	44	Percentage
Yes	17	38%
No	27	61%

General Comments Made:

Some interesting general comments were made in relation to widening triggers.

The negative comments were generally referring to the additional cost incurred in relation to registering land. These referred to legal costs and also an incorrect belief that there would be additional land registry fees. Some comments were asking for the process of registration to be made cheaper.

The positive comments noted that an increase in visibility of registered land is in the public interest.

Questions 13 and 14 generated a large amount of interest in the Land Registry drop in session from the farming community and a reasonable percentage of overall respondents were from the farming community who generally commented negatively.

Section Two Conclusion:-

Public feedback was generally positive in relation to the expansion of triggers but not for farmland and leases. The additional cost involved was the major negative factor raised.

Section 3 Responses

This section contained questions relating to dispute resolution in the Land Registry, particularly whether the process in relation to resolution of disputes should be formalised and also whether it would be desirable to offer preliminary opinions.

Q15: Do you think it would be advisable to formalise the Land Registry's role in relation to disputes?

Total Responding the question	44	Percentage
Yes	36	82%
No	8	18%

Q16: How do you think disputes should be handled in the first instance by the Land Registry?

There were 27 responses to this question without any clear consensus.

A number of responses suggested a more informal mediation based approach, possibly based on mainly paper evidence. Other responses however requested that the Land Registry should not be involved in dispute resolution and that the court system should be used by reference to the Land Commissioner.

Generally greater clarity on the options available was requested.



Q17: Do you think it would be beneficial for the Land Registry to be able to offer a preliminary opinion in relation to a Land Registry dispute

Total Responding the question	42	Percentage
Yes	34	81%
No	8	19%

In the comments to this question a number of respondents did clarify that they were positive to such an opinion providing an early indication without affecting the ability for further consideration at a later date. Negative comments considered this could fetter the Land Registry's discretion.

Q18: Should parties be able to claim costs in Land Registry proceedings generally?

Total Responding the question	43	Percentage
Yes	28	65%
No	15	35%

Section Three Conclusion:-

Public feedback was generally positive in relation to clarification of the dispute process and moving towards a process that could be quicker and cheaper.

Q19: Should costs in Land Registry disputes be limited?

Total Responding the question	43	Percentage
Yes	33	77%
No	10	23%

Section 4 Responses

This section contained questions relating to updates to the Land Registration Act 1982. These were in relation to co-ownership status, timescales for registration of transactions in the Deeds and Land Registries and potential changes to the powers for the rectification of clear and obvious errors.

Q20 : Do you agree with the Land Registry proposal that a provision should be included in legislation that allows a joint tenancy to be severed by notice?

Total Responding the question	39	Percentage
Yes	34	87%
No	5	13%

Q21 : Do you agree with the Land Registry proposal that the period for first registration applications to be submitted to the Land Registry is reduced from 3 months to 1 month?

Total Responding the question	43	Percentage
Yes	22	51%
No	21	49%

Q22 : Do you agree with the Land Registry proposal that a fixed period for registration applications to be submitted to the Land Registry is introduced?

Total Responding the question	43	Percentage
Yes	31	72%
No	12	28%

Q23 : Do you agree that the Land Registry should have the power to rectify a clear and obvious error on the Register without the consent of all interested parties?

Total Responding the question	45	Percentage
Yes	34	75%
No	11	25%

General Comments Made:

In relation to question 20 consideration needs to be given to other severance methods and potential effects on Manx Law.

In relation to question 21 the negative comments were mainly highlighting the practical difficulties experienced by advocates in potentially complying with this change

In relation to question 22 comments were positive in general but with the proviso that the timescale should not be as short as 1 month.

In relation to question 23 the comments were generally positive but with qualifications that parties need to be noticed and have an opportunity to object or appeal and also that clarification as to what is a clear and obvious error would be needed.

Next Steps

As this review demonstrates, there is strong support for some amendments to the Land Registration Legislation.

Respondents also expressed significant support for many of the proposals. However support for some of the proposals was mixed. It is likely that the practicalities of the proposals will require further consideration as to whether they are appropriate to the Isle of Man's circumstances.

Therefore, the Central Registry intends to bring forward the following changes in a Land Registration Amendment Bill:

- Amendment to the Law relating to Adverse Possession of registered land to reflect the law in England and Wales but retaining a 21 year qualification period. In addition further consideration may be given to amendment to the Law in relation to all property;
- The Land Registry proposes widening the triggers for first registration of property to add new triggers for deeds of gift, assents, new mortgages and remortgages. The Land Registry does not propose adding triggers in relation to agricultural subsidies and in relation to the freeholds of apartment buildings at this stage. In addition the Land Registry proposes that a vires to allow further triggers to be added via future secondary to be included.
- Amending the dispute resolution procedure in the Land Registration Act and the Land Registry Rules with the intention to provide clarity and increased resolution options. This will be achieved by an update to the Land Registration Rules. It not our intention to introduce the power to provide a preliminary opinion but rather to allow dispute resolution solutions which avoid the need for costly hearings. It is our intention to provide legislation that costs in disputed Land Registry matters would generally be bourn by each party unless there were exceptional circumstances and also limited.
- Legislating for changes in co-ownership status will be introduced.
- Introducing a requirement for deeds relating to registered land to be submitted promptly.
- Amending the legislation relating to rectifications pursuant to the Land Registration Act.



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