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STEWARDSHIP AND RESPONSIBILITY: A POLICY FRAMEWORK FOR PRIVATE HOUSING IN SCOTLAND

The Keeper of the Registers of Scotland is statutorily responsible for maintaining Scotland's two property registers, the Land Register of Scotland and the General Register of Sasines. On his behalf I offer the following comments on the recommendations of the Final Report of the Housing Improvement Task Force.

1. Paragraph 174 sets out the contents of the Purchaser's Information Pack, which include "a copy of the Land Certificate". This is repeated in Paragraph 306. Paragraph 180 advises there will have to be "sufficient copies for all prospective purchasers" of the Pack.

I note that a Land Certificate is covered by Crown copyright. The Keeper has a delegation of authority from the Controller of HMSO in her capacity as Queen's Printer for Scotland to licence the reproduction of Crown copyright material produced by the Registers of Scotland. Standard procedure, as advised by HMSO, is for the Keeper of the Registers of Scotland to grant copyright licences for the reproduction of Land Certificates (excluding Title Plans) free of charge in any format or medium. Title Plans are excluded from the licence because they derive from the Ordnance Survey Map and the Keeper himself produces them under licence from the Ordnance Survey. Information about Ordnance Survey's copyright licensing arrangements can be found at www.ordsvy.gov.uk.

Leaving aside the copyright issues associated with the Title Plan part of the Land Certificate, the issuing of licenses by the Registers of Scotland in connection with the purchasers packs would place an intolerable administration burden on the Keeper.

In any event a copy of the Land Certificate is perhaps not the most appropriate document to include in the pack. Where the property in question is mortgaged the Land Certificate will generally be held by the secured creditor. In most cases the secured creditor will charge a fee for its release, if indeed they are prepared to release it. A Land Certificate is also only accurate as of the day it was issued. Thus for instance if the last title transaction was in 1983 the Land Certificate will show details twenty years old. Some of these details may be out of date. For example, on the one hand there may be spent entries such as expired improvement grants, while on the other hand it may not reveal a second mortgage if the owners have taken one out.

A potential solution would be for the seller's Agent to download sufficient copies of the Title Sheet from the Keeper's online service Registers Direct. The Registers Direct copy shows the up to date position.

2. Paragraph 126 should read "registered in the Land Register of Scotland" (and not "recorded in the Register of Sasines").

3. As regards Paragraph 307, I would point out that Registers Direct is currently a business to business information system. Members of the public who wish information are currently required to transact through the Keeper's Customer Service Centres in Edinburgh or Glasgow (telephone numbers 0845 6070161 and 0845 6070164 respectively). Anyone wishing more information on Registers Direct is invited to contact either of our Customer Service Centres.

I hope you will find the above comments useful.

Legal Director