

Q&A Guide to Land Registration

What is land registration?

The Scottish Government has given Registers of Scotland until 2024 to map and register all land in Scotland. The Land Register is a map-based system which gives Scottish property owners a title sheet including an Ordnance Survey map clearly showing the extent of ownership.

Do I have to register my land before 2024?

Not necessarily. Until recently the only circumstance in which an owner was obliged to register land was on the purchase of property in exchange for a price being paid. However, new “triggers” were introduced in December 2014 which oblige you to register your land in other circumstances or which mean your land will be registered automatically.

What are the trigger events?

The main “triggers” are:

- The grant a lease for more than 20 years such as a lease for a wind farm, lease of a building or lease of farm land, results in automatic registration in the Land Register. Only those parts of your property affected by the lease will be registered.
- From April 2016, granting a new mortgage or security will also result in automatic registration. If you grant an option to a housing developer or a wind farm operator, it is likely that the developer will want a security over the option site which would trigger registration of the site. Only those parts of your property affected by the security will be registered in the Land Register.
- Any transfer of land (whether or not any price is paid) including a gift to a family member or the transfer of land after death to beneficiaries under a will.
- The grant of other rights relating to land, for example the grant of servitude rights for access or services, is also expected become a trigger event in the next few years. At present this does not yet require registration of your land.

Can Registers of Scotland register my land without my consent?

Strictly speaking Registers of Scotland do have powers to register your land. This is known as “Keeper induced” registration. If this occurs, there is no registration fee payable and you will be notified by Registers of Scotland **after** your title has been registered. You will not be sent a notice in advance. If this happens, it would be prudent to ask your solicitor to check that the title has been registered accurately since there is a risk that the registered title will contain errors. That is because Registers of Scotland are unlikely to have access to all relevant information about your property and will not know what the property looks like “on the ground”; nor the extent of the land you are occupying - particularly if you own and occupy land outside fenced boundaries or your boundaries are not fenced at all, such as where boundaries are rivers or unmarked on moorland. In particular Registers of Scotland will not know if you have any rights of access or for services obtained by use for more than 20 years (known as prescriptive rights).

What are the benefits of registering my land now, voluntarily, instead of waiting for a trigger event?

There may be benefit in registering your land in advance of a trigger, or undertaking early preparation so that you are ready to deal with a trigger, to ensure that registration is done accurately and that your registered title sheet includes all the rights you need to enjoy your land, including access rights and rights for other services. An accurate registered title sheet is a much more user-friendly and practical record of your land ownership than Sasine title deeds, which often have poorer quality plans and where information about your property may be spread across a large number of historic deeds.

Voluntary registration allows you to manage the timescales for registration and ensures that you have sufficient time to check your boundaries prior to registration. Where boundaries between properties are not clear in old titles, or where you own and occupy land outside fences, it is important to ensure your application for registration includes all the land you are entitled to. If the preparation of your application is not thorough and accurate, third party encroachments into your land could be missed.

Where boundaries between neighbouring properties are uncertain, and neither property is registered, it can be useful to be the first property on the register. This is because it can often mitigate the risk of encroachments by neighbouring owners. If your neighbour obtains a registered title first, and their title includes land which you consider belongs to you, once that land is sold on to a third party it will be extremely difficult to have the title amended (unless you can show there has been fraud or negligence).

If only part of your property is being registered as a result of “automatic” registration on the grant of a lease or security, the registration of your interest in the affected part of your property will be controlled, to an extent, by a third party (e.g. the Bank or your tenant). That party may not be aware of all the rights which benefit your wider property (e.g. any rights of access over neighbouring land, created by use) and may not be concerned with any rights you need for the future being included.

If a number of automatic registrations affect your property, your title to your wider farm or estate could be fragmented into a number of different registered parcels. Voluntary registration allows you to avoid this by ensuring that your whole ownership is registered at the same time, in a single title sheet, ensuring ease of management for the future.

How much will registration cost?

The cost of registration will include the registration fees charged by Registers of Scotland, plus the legal fees charged by the solicitor dealing with the application to register the title. In most cases a new plan of your property will be required, so there will be a cost associated with the preparation of the plan. In many cases, particularly for rural properties, you may also wish the agent preparing the plan to check your boundaries “on the ground”.

Legal Fees

When it comes to legal fees for registering your property, the cost will depend on various matters including the value, size and type of land you own; when you acquired it; whether you have bought and sold pieces of land over the years; the number and size of title deeds you have; whether or not you have unfenced boundaries; whether you can provide practical information about your land and boundaries yourself or whether you need to employ a land agent to check that information; and whether you have a good plan of your land.

Brodies LLP have a team of people with extensive experience and expertise who are working on property searches and registration of title full-time. Because Brodies has already carried out several major land registration projects since 2006 including 1000s of separate areas of land and including registering all the land for the three new railways in Scotland as well as registering title for many farms, woodlands and estates, we have developed award winning software for managing title information. Our experience and dedicated team enables us to provide a fixed fee or capped fee proposal in many circumstances for registering title to land and to deal with the registration efficiently and accurately. If you get in touch with us, we can discuss your particular circumstances and agree a fee proposal for you to consider.

What fees do I have to pay Registers of Scotland?

Registers of Scotland charge a fee for registering your property in the Land Register. If registration results from a transfer of your land (e.g. you are buying the property, transferring it under a will or gifting it), the standard fee rate applies, based on the value of the property being transferred. If registration is undertaken voluntarily, the voluntary fee scale applies. Again, this is based on the value of the land involved, but the rates are discounted by 25% against the standard fee scale.

Consideration or value of property	Standard fee	Voluntary fee
Up to £50,000	£60	£45
Up to £100,000	£120	£90
Up to £150,000	£240	£180
Up to £200,000	£480	£360
Up to £300,000	£600	£450
Up to £500,000	£720	£540
Up to £700,000	£840	£630
Up to £1,000,000	£1,000	£750
Up to £2,000,000	£3,000	£2,250
Up to £3,000,000	£5,000	£3,750
Exceeds £5,000,000	£7,500	£5,625

If registration occurs because you have granted a mortgage or security, Registers of Scotland will charge £60 for registering the security. Registration of your ownership interest in the property is automatic in those circumstances, so you do not need to pay any additional fee to Registers of Scotland. The position is similar if you grant a lease of more than 20 years as your tenant must pay a registration fee for the lease, based on the rent (if the rent is minimal, the registration fee will be £60). However, as registration of your interest in the land being leased is automatic, no additional fee is due to Registers of Scotland by you.

Plan Fees

You may already have a plan of your land or have an agent or contact who can prepare a plan suitable for registration for you. If you do, we can tell you or your agent about the Registers of Scotland requirements and can liaise with you to make sure the plan shows all the information that Registers of Scotland require. If you do not know someone who can prepare a plan for you, we can put you in touch with someone who can give you a quote for preparation of a plan.

If I want to register my land, do I need a valuation?

A formal valuation is not required but you will need to certify the value provided and it must be a reasonable estimate of the market value at the date of the application for registration.

Why should I choose Brodies to do the registration?

You should choose the firm that is right for you and you should make sure that the registration is done accurately and efficiently and that you get value for money. Brodies has the team and expertise and experience and systems that mean we can do the work accurately, efficiently and at a reasonable cost.

If you get in touch with us, we can discuss your needs and what is right for you and agree a fixed or capped fee that will make sure your land registration is done accurately and efficiently.

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