
Land Registry Online Consultations - Comprehensive Land Register

FINAL ANSWERS (PUBLIC)

Submitted by Gerald Moran on **22 Feb 2008 09:58**

1a. The proposed new triggers

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Do you have any comments on our proposal that the appointment of a new trustee of land should be a trigger for compulsory first registration when a qualifying estate vests in the new trustee by a deed or an appointment treated as made by deed under section 83 of the Charities Act 1993?

[We oppose this proposal. Compulsory first registration of title should be targeted at transactions giving commercial benefit - sale, leasehold of significant duration, first mortgage, formal vesting on distribution of an estate, gift etc. Voluntary first registration should be encouraged so that it is dealt with at a time to suit the applicant. That may or may not include a time when a new trustee is appointed.]

There are benefits of registration but these may seem academic when there is no transaction envisaged and no likely problem with adverse possession. Effort and expense is required - not only the Land Registry fee but also legal costs and perhaps surveying fees, for example with a rural estate. Some trusts may not be keen for ownership details to be for public view.

Appointment of a new trustee may be at the same time as retirement of a trustee or it may follow or precede the death or retirement of a trustee. The change of trustee gives no commercial benefit so as to justify the effort and expense of first registration of title. It is unhelpful for legal ownership to be deemed to remain with a person who is or may soon become incapable, uninterested, permanently abroad or dead.

The proposal will hit charities or other associations. Suppose that property has long been owned by an unincorporated club. The two trustees are old and so they appoint two new trustees. There is no spare money for going to lawyers. They use the same standard form of appointment that was used in the past. Later the old trustees die. Their personal estates are administered but the executors have no knowledge of the trust property. The proposal would cause problems in such a situation.

Some charities and similar trusts have property vested in far more than four trustees and with extra trustees being appointed fairly often to help fund raising etc.]

1b. The proposed new triggers

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Do you have any comments on our proposal that the appointment of a new trustee of land should be a trigger for compulsory first registration when a qualifying estate vests in the new trustee by an instrument in writing that appoints a new trustee or a document treated as such, where sections 13, 129 and 135 of the Trade Union and Labour Relations (Consolidation) Act 1992 apply?

[We also oppose this proposal as again the change of trustee does not give rise to commercial benefit.]

1c. The proposed new triggers

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Do you have any comments on our proposal that the appointment of a new trustee of land should be a trigger for compulsory first registration when a qualifying estate vests in the new trustee by a vesting order under section 44 of the Trustee Act 1925?

[We also oppose this proposal for the same reason as above. Having to go to Court to change the trustee is an unwelcome expense and should not be aggravated by compulsory first registration.]

2. The proposed new triggers

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Do you have any comments on our proposal that the partition of land amongst trust beneficiaries should be a trigger for compulsory first registration?

[**We would not be against this proposal but it seems trivial on its own.**]

3. Other options

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Are there any other cases that you think compulsory registration should apply to?

[**No. Expanded coverage should be by facilitating voluntary first registration to supplement compulsory first registration where there is commercial benefit.**]

4. The amendment order

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Do you have any comments on the draft order set out in *Annex B - Draft Order under section 5 of the Land Registration Act 2002*?

[**There is the problem that a change of trustee is likely to be in situation where the former owner is or will soon be dead or mentally incapable etc.**]

5. Consultation impact assessment

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Do you have any comments on the consultation impact assessment included in *Annex A - Consultation impact assessment*?

[**The main question is in what circumstances there should be compulsion for registration of title by persons that are not persuaded that there is benefit which justifies the effort and expense, for example for a small charity or other association. If the objective is to benefit the public then it should be for the public to bear the extra cost to the Land Registry for imposing this exercise on unwilling owners.**]

6. Other comments

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Do you have any other comments on the issues raised by this consultation document?

[**No.**]

7. Which of the following categories best describes your work

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Please select one of the following possible options:

Please select one option from the list. You must provide an answer to this question.

- | | |
|--|-------------------------------------|
| Solicitor/conveyancer/legal practice | <input type="checkbox"/> |
| Other property professional, eg land agent, surveyor | <input type="checkbox"/> |
| Government department/local authority | <input type="checkbox"/> |
| Regulatory/representative body | <input checked="" type="checkbox"/> |
| Banking/building society/financial institution | <input type="checkbox"/> |

Academic

Other (please specify)

8.

8.

If you are responding on behalf of a group or organisation, who do you represent?

[**City of Westminster and Holborn Law Society.**]

9.

9.

What is the ethnic profile of your group or organisation?

[**Not available**]

10.

10.

Please let us know of any potential impact of our proposals on any ethnic group you represent.

[**Not available.**]

11. Confidentiality

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Details of responses to this consultation will be published. If you would like to request that your response be kept confidential, please explain your reasons below. We will consider your request in accordance with the Freedom of Information Act 2000. (Please see *1 - How to respond*)

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