OWNERSHIP OF LAND HOLDINGS IN RURAL SCOTLAND



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OWNERSHIP OF LAND HOLDINGS IN RURAL SCOTLAND

Environmental Resources Management

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CHAPTER ONE INTRODUCTION

1.1 BACKGROUND TO THE STUDY

The Scottish Executive Environment and Rural Affairs and Justice Departments commissioned Environmental Resources Management (ERM) to undertake a study into the nature of the demand for information about the ownership of rural land holdings in Scotland and how best to meet such demand. The need for this research has arisen in response to the findings of the Land Reform Policy Group (LRPG) following a series of consultations, culminating in the Scottish Executive consultation paper, *Proposals for Legislation* (1), which suggested *inter alia* the creation of a new database on land ownership in rural areas to ensure greater transparency on land ownership and to make it easier for the public to find out who owns particular areas of land.

1.2 OBJECTIVES OF THE STUDY

The objective of the study is to examine the nature of the need for information on ownership of rural land holdings among the key groups involved with land use and management in rural areas, to assess whether a new system would serve a useful function and meet the Government's commitments on availability of information on land holdings, and, if so, to examine what type of system might best meet the needs identified. Specifically, the study's aims are to appraise:

- whether there is an identifiable and quantifiable demand for information on land holdings beyond that already met by existing sources;
- who would be the primary and secondary users of such information and for what purposes they would require the information;
- what type and form of information on land holdings is required; and
- what type of information system would meet the requirements identified, what resources would be needed and how it might be resourced.

The study has also examined the related issue of information on beneficial ownership of land (where the beneficiaries of land are different individuals or entities from the registered owners), an issue which was raised in the White Paper on Land Reform.

Two important points to note are that:

- the study is about information on land ownership rather than issues of land ownership itself;
- the study is about rural land specifically, not all land in Scotland.

These points should be taken into account in reading the rest of this report.

⁽¹⁾ The LRPG has produced a series of consultation papers in which a range of issues associated with land reform have been considered. Information about land ownership forms one such area, and proposals for a database were put forward by the Scottish Executive in the White Paper (Proposals for Legislation) in July 1999.

1.3 PURPOSE OF THIS REPORT

This *Final Report* presents the findings of the study. It provides:

- an overview of the approach taken to the study, which has involved a survey of users of information on land and extensive consultation with organisations using, or interested in, information on land ownership;
- an analysis of information obtained throughout the study; and
- a discussion of a series of options which have emerged from the study for consideration by the Scottish Executive.

The report is structured as follows:

- *Chapter 2* presents a summary of the key findings of the study;
- Chapter 3 describes the approach to the study, including the development of the questionnaire, the survey design process and the survey management programme;
- Chapter 4 presents a review of existing information about land holdings and current information systems;
- Chapter 5 discusses each of the key issues raised by the study in turn, based on information obtained from the literature review, from consultation and from the survey;
- Chapter 6 discusses the implications of the issues raised by the study in terms of the options available to the Scottish Executive to respond to demand for information about rural land holdings.

Supporting information has been included in the following annexes:

- *Annex A* Survey Sample;
- *Annex B* Survey Questionnaire;
- Annex C Analysis of Questionnaire Results;
- Annex D Workshop Attendees and Study Consultees.

CHAPTER TWO SUMMARY AND CONCLUSIONS

2.1 INTRODUCTION

Environmental Resources Management (ERM) was commissioned in October 2000 by the Scottish Executive Justice Department and Environment and Rural Affairs Department to undertake a research study into the demand for information about the ownership of land holdings in rural Scotland. The key aims of the study were to identify and quantify the demand for information on land holdings, what information is needed and who uses it, and what type of information system would best meet the requirements identified.

This chapter of the final report provides a summary of the key findings. First it provides a brief overview of existing sources of information. It introduces the different groups of information users identified during the study and discusses their typical information requirements and the problems they experience with existing sources. It then provides an overview of the options which have been considered to address the demand expressed by the different groups for information on rural land holdings. The options include a wide variety of possibilities including several suggested by those consulted during the research and others which emerged from the research team's consideration of the issues. The merits of each option are discussed and recommendations made for the future.

2.2 EXISTING INFORMATION SOURCES

A number of sources of information on rural land holdings already exist in Scotland and these are summarised in *Table 2.1*.

Table 2.1 Existing Sources and Holders of Land Ownership Information

Register of Sasines

Historical record of land transactions, in existence since 1617 and maintained by the Registers of Scotland. Holds records of title deeds (as search sheets for each property) searchable by the property owner's name or address. Not map-based. Publicly accessible, search fee to find and view one title of £2-4.

Land Register of Scotland

Map-based register of interests in land, initiated by the Land Registration (Scotland) Act in 1979. Title has been registered on those properties bought and sold since the system became operational in 1982 in specified 'counties'. Counties have been progressively included in the system. The counties currently not registered are Inverness and Nairn (due April 2002) and Banff, Moray, Ross & Cromarty, Caithness, Sutherland, Orkney and Shetland (all due April 2003).

All counties will be included by 2003 but only properties subject to transaction will be registered. All registered properties are identified on the index map with a link to title plans and records. All maps and records are held on paper. Index maps are at scales of 1:10,000 down to 1:1,250 depending on whether the area is rural or urban. Searches are map-based costing £2 for a search of the index map and £4 for the title sheet and plan.

Registers Direct

Registers Direct is a digital system with two parts. In Phase I which is operational, all written records on the Register of Sasines have been digitised and can be searched electronically. The database is available via the internet to 500 account holders including solicitors, local authorities and banks, who pay a fee per search. In Phase II, which will be available later this year, the map-based Land Register and associated records and title plans have been digitised. These will also be searchable by account holders via the internet. The aim is to register about 1500 commercial account holders who will pay £2-4 per property and can print off copies of documents and plans. Eventually it will be made more widely accessible from libraries etc and ultimately from the internet.

ScotLIS

A pilot system initiated by RICS to provide a gateway through to actual sources of information such as Registers Direct. Holds a variety of different types of information on property and land in addition to ownership, such as geological (from BGS) and mining records (from the Coal Authority).

Highland Council Database

A non-authoritative map-based digital system (GIS) holding information on ownership of all land holdings in Highland of >100 hectares (1,231 properties in total), plus information on a significant number of smaller properties identified at the same time. Covers about 95% by area. Provides references to Sasines search sheets. Mapped at 1:25,000 scale so boundaries are not precise, and is accessible to pre-arranged enquirers at the offices of the Highland Council although it is not publicly advertised. The system cost £80,000 to set up in 1995 and is updated 6 monthly (at a cost of around £4000 per annum) by a search of new transactions in the Register of Sasines.

Argyll & Bute Council Database

Similar to the Highland Council database, established in 1998 but not maintained since. Rarely used.

Local Rolls

Valuation Rolls and Council Tax Valuation Lists provide names and addresses of occupiers of properties updated annually and organised by address. Not map-based.

Other Sources

A variety of public and private organisations hold information on who owns or occupies land for a range of different purposes. The type of land covered (farm land, crofting land, forestry, mining etc), the locations covered (by council area, by geographical area etc) and the type of information held (ownership, occupation etc) vary according to need and none of these sources is comprehensive. Many are confidential (eg information on farm holdings held by SERAD) or private (eg information held by utility companies in relation to power or pipeline wayleaves).

2.3 USER GROUPS

Classification of Users

The research identified many organisations and individuals who either regularly use or consider that it would be useful to have, information on rural land holdings. These actual or potential users span a broad spectrum which can be broadly grouped into four types with similar characteristics and information needs.

These groups have a wide range of information requirements, differing awareness and levels of use of current information systems and varying levels of difficulty with those existing systems. These differences present a challenge in terms of finding and recommending a single 'solution' to the collective issue on information about land ownership.

The four groups are introduced below.

Group 1: Professional Organisations

This group includes lawyers, land agents and surveyors and other professional organisations. Typically they already know who owns the land they are interested in (usually it is being bought or sold) but they require authoritative information on boundaries, duties, burdens and rights *etc* for specific parcels of land. Their needs arise on a regular and frequent basis. Organisations in this group know where to access such information, and obtain it without difficulty from existing sources, usually the Register of Sasines or the Land Register.

They would benefit from speeding up of the Land Register and concurrent digitisation of new land certificates and plans onto Registers Direct, however there does not appear to be a particularly strong (or vociferous) demand for this.

Group 2: Developers, Utilities and Agencies

This group is more difficult to define than the first, but includes private companies, developers, utilities, central and local government and their agencies.

These organisations usually require information on who owns tracts of land which might be in multiple ownership, because they need to know if they can use or acquire it for planned infrastructure or development, or as part of development feasibility studies (for example routes for power or pipelines, housing development sites), or for reasons of designation or management (eg SSSIs or land assembly for development). The information they require may not always need to be definitive in legal terms but clear definition of boundaries will be important.

Whilst this information may be obtainable from the Registers of Scotland, it is often quite cumbersome to acquire due to the length and complexity of searches required and because the information may be only partially map based (where it appears on the Land Register). Very often, alternative sources require to be searched, or land referencing companies commissioned to undertake detailed door-to-door investigations.

These organisations are regular users of information on land with the experience and resources to obtain it from existing systems but they nevertheless have frequent difficulties in obtaining accurate, complete and timely information. They would have the most to gain from speeding up the Land Register (and subsequent transfer of data to digital format in Registers Direct) and they would generally be able and willing to pay a commercial price for it.

Group 3: Community Organisations

This group comprises individuals and organisations such as community groups, community councils and rural partnerships. Their need for information on who owns land may arise for a variety of reasons, for example because:

- they think it is being poorly managed and they want to complain or take action;
- it is causing a problem for their own land management;
- they think they have some rights in relation to the land (eg grazing), or wish to register an interest (eg community right to buy);

- they want to obtain permission to purchase the land; or
- they wish to gain access to it for some use (eg a community event).

For this group the main problem appears to be lack of knowledge of existing systems and of the expertise and resources to access them. Their need for information will typically be infrequent or one-off and the knowledge and skills needed do not therefore develop over time.

It is also important to appreciate that for these users, acquiring knowledge of who owns the land may not be the end of the issue. They may still be unable to make contact with the person they need for the reasons of overseas ownership, absentee landlords, beneficiaries *etc*. A system that identified legal owners would be part of the solution but not all.

These groups would be best aided by providing easy to access information about what to do and where to go for land ownership details. A simple guide would explain the different sources that can be approached starting with local people, then the council and the Highlands database (if in the Highlands) and finally the Registers if needed.

Beyond this, the next step would need to be something like a map-based system (either on paper or preferably digital) which could be accessed in a local library at minimal or no charge. This type of "cadastral", public land ownership system is common in many other countries. It would not of course, overcome the problem of being unable to establish contact with owners even when their identity is known.

Group 4: Researchers

This group includes organisations and individuals such as academics and other researchers, some NGOs and public agencies and interested individuals with a more 'abstract' requirement for information on land. They may, for example, wish to know about patterns of ownership for policy making, research or even market research purposes.

The information needs of these groups will tend to be disparate and difficult to predict and it is unlikely that any one system or solution would significantly benefit them. It might also be argued that since these organisations are already in the business of research, that they are well acquainted with methods of obtaining the data they require, and therefore it would be difficult to justify expenditure on a new system.

2.4 DIFFICULTIES EXPERIENCED BY USER GROUPS

The research is showing a clear message of different sorts of users requiring different sources of information. At one end of the spectrum are regular users requiring specific types of information on land holdings as part of their professional occupation (eg by conveyancing solicitors), who are well versed in means of accessing the information needed, which is nearly always obtainable from the Registers. These groups are generally satisfied with existing information sources although they would benefit from speeding up the transfer of information onto a map-based system and into digital format.

At the other end of the spectrum are infrequent users of information who have relatively limited awareness and experience of existing sources of information. The research has strongly indicated that these users are in need of better access to, and understanding of, the information which is presently available on land ownership rather than, a completely new or alternative information system.

Other groups with less well specified information requirements tend to be regular users of large quantities of information on land holdings who appear to experience some difficulty in obtaining the information they require on land, although they are generally aware of existing sources such as the Registers of Scotland. A number of organisations, who may be classified in this 'middle ground' of national agencies, larger NGOs and utilities (as well as some from the other groups described above), considered that some form of transparent, digital and map based system of information on land holdings would allow many different sorts of organisations a first point of access/reference to information on rural land. Such a system need not necessarily be comprehensive or definitive, but is envisaged as providing sufficient information to either satisfy users' demands or at least provide basic information which could then be used to take forward a more detailed search, for example in Sasines. The proponents of such a system consider that it would provide a reference for many different types of users, and it could provide a starting point for more detailed investigation in the Registers.

With or without a new information system, the research for the study has revealed that there appears to be a significant variation in the level of awareness of information on land holdings and how to access it across the sample surveyed. It seems that for a great number of organisations and individuals with limited awareness, what is important is helping them to understand that information is publicly available, where it may be accessed and who is able to help in this process. In other words, to a large extent, it is an issue of awareness and education, rather than one of adequacy of current information systems.

Although the option of attempting to draw together existing sources of information on land ownership (eg local and national, public and private) received support in the survey and consultations, a large number of difficulties were raised in more detailed discussions including problems of confidentiality of data held by many of the organisations who have databases, and whether the information held in the disparate systems could provide a comprehensive picture of land ownership, even if it was possible to combine it together.

2.5 OPTIONS FOR IMPROVING INFORMATION

Introduction

Three options have been examined as an illustration of the types of approach which might be practically adopted to address the information requirements identified by the research findings. The options are an illustrative means of comparing resource requirements, likely effectiveness and ease of implementation rather than specific recommendations.

Option A: Education and Awareness Raising

This is the simplest and least resource intensive option comprising the development of an information booklet describing current sources of information on land ownership, means of accessing information and where to get further advice. The information presented in the booklet would also be available on a web page, either specifically developed as a new internet site or as part of an existing site such as the Scottish Executive's. This option implies a relatively modest financial investment (of up to £20,000) and would be of most assistance to the wide range of community organisations and individuals who are not regular users of information on land.

Option B: Acceleration of the Map-Based Land Register

This would involve the compulsory registration of land holdings. This option would require new legislation to provide the powers for registration of holdings other than in the event of a transaction (with Parliamentary and Executive resources accordingly) and significant resources for the researching of titles and entering of information onto the Register. Property owners would also incur legal expenses during clarification of titles and boundaries. The earliest estimate of substantial completion of the Land Register using compulsory registration is around 15-20 years and would cost around £80 million over this period. The more comprehensive Register which resulted would benefit a range of professional, commercial and non-governmental organisations.

If at the same time the map-based information and title deeds were digitised on Registers Direct this would eventually provide a cadastral system which could be accessed from, for example, public libraries and council offices or via the web. The cost of digitising boundaries and title deeds, over and above the cost of registration, has not been estimated but would add significantly to the figure of £80 million. Making it widely accessible would add further to the cost with significant issues associated with the legal status of information accessed by non-specialist users.

A lesser form of Option B would be to offer voluntary (rather than compulsory) registration on the Land Register, but it is difficult to see how this would achieve very much faster coverage than is being achieved through the present transaction-based registration. Some form of incentive arrangement might speed the process but coverage would still be ad-hoc.

Option C: Extending the Highland Database to all of Rural Scotland

This approach would provide a non-authoritative but relatively comprehensive system at a substantially lower cost than Option B and its variants.

A new digital database, specified along the lines of the model developed in Highland is estimated to cost up to £2 million at a relatively coarse grained level of detail, with maintenance costs of around £100,000 needed to keep the system up to date. The database would be of use to a range of potential organisations including developers, NGOs and community organisations though its utility would depend on its availability, restrictions of use of the data obtained and the level of detail and accuracy of the system.

A particular constraint would be the size of holdings covered. Reducing the size of holdings below the threshold of 100 ha used in the Highland Database would lead to an exponential increase in cost as the number of holdings and difficulty in establishing ownership increased. Size of holdings covered was one key factor identified by most users as a limitation on the usefulness of information sources, with the majority of respondents to the survey identifying a need for information on holdings of all sizes.

Discussion of Options

Option A offers considerable benefits in relation to the needs of infrequent information users highlighted by the research and has the advantage of being relatively quick to implement. The relatively low resource implications of this option also suggest that its benefits will be high compared with its cost. The study has found a significant issue among those consulted to be a gap in information and awareness about existing information on rural land ownership and these problems are raised more often than demands for a new system. Therefore Option A would be a valuable first step in identifying the requirements identified.

The cost of registering all rural land onto the Land Register under Option B is significant and it would be a considerable period of time before the benefits would be felt by the numerous and both regular and irregular users. There are resourcing constraints, in particular a lack of suitably trained research staff available to the Registers of Scotland which would prevent very rapid acceleration of the process. If a mandatory system were to be introduced, significant political commitment would be required to introduce new legislation and regulation of the process. This in turn adds to the cost and legal and administrative complexity of the option.

Option C, a Scotland-wide database, would be a cheaper and quicker option than formal egistration but clearly not a substitute for a comprehensive Land Register. Some organisations favour this as an interim solution in advance of completion of the Land Register. However, the utility which would be gained by the collective users of a new database is difficult to estimate as it appears that a system with insufficient detail in terms of holdings size would not be useful to the majority of respondents. This presents a risk of limited benefit to potential users despite moderately high set up and maintenance costs.

The three options are discussed and compared in more detail in *Chapter 6* of the report.

Conclusions

None of the options reviewed provides a quick or cheap solution to the identified needs of all the different information user groups, primarily due to the diversity of users and their requirements. Option A offers the potential for benefits and the quickest return to non-specialist and infrequent community users by improving awareness and accessibility of land ownership information.

Cost aside, acceleration of the Land Register offers the definitive, authoritative and most widely beneficial system in the longer term. Since the Land Register will eventually become a comprehensive system (whether its completion is speeded up or not), the decision appears to rest with which version of Option B (if any) would be affordable and most cost effective in

terms of assisting organisations and individuals who need access to better information on rural land holdings.

An intermediate level of acceleration between the current geographically limited, transaction-based process and rapid compulsory registration would significantly increase the rate at which the Land Register was completed, but need not entail the large resource requirement (for the Scottish Executive and Registers of Scotland) associated with drafting new legislation, training staff, and researching and preparing land certificates. Such an option might involve voluntary registration by landowners and use of incentives to encourage registration. The rate at which map-based coverage would be increased would be in proportion to the resources applied up to the level of the £80 million estimated for compulsory registration.

CHAPTER THREE APPROACH TO THE STUDY

3.1 INTRODUCTION - OVERALL APPROACH

The context for this study on information about ownership of rural land holdings is provided by the complex subject of wider land reform in Scotland. The issue of land reform has become particularly prominent in the last three years in Scotland primarily as a result of the new priorities for policy and legislation of the devolved Scottish Parliament. The formation of the Land Reform Policy Group (LRPG) in 1997 and its in-depth consideration of a range of complex issues on land reform and rural policy involved a programme of consultation and subsequent recommendations for law reform.

Information, and the potential demand for information, on rural land holdings in Scotland was among the issues examined by the LRPG. The policy group subsequently recommended that the issue warranted further examination, and that a separate study on the demand for information about land holdings should be undertaken by independent researchers. ERM was appointed to undertake an impartial and independent study to explore in more depth the extent and nature of the demand for a database of rural land holdings.

The approach to the study has taken account of previous deliberations by the LRPG on the wider debate on land reform. Although information gathered by the LRPG, and representations to the them, on information about land holdings has been referenced in the study, the approach adopted has also been to undertake specific and new primary research into the concept of demand for information.

3.2 LITERATURE REVIEW AND FIRST STAGE CONSULTATION

The first stage of the study sought to identify, in broad terms, the key issues associated with demand for information on rural land holdings. This was approached through a combination of review of existing sources of information and initial consultation with organisations known to have views on the information debate. The sources consulted, and the nature of the information obtained at this stage are summarised in *Table 3.1*.

Table 3.1 Information Sources Consulted

Source	Information Accessed
proceedings eg Who Owns Scotland (Wightman),	Broad based information on views of land reformers on information, key issues about demand for information together with background data on patterns of land ownership in rural Scotland and existing sources of information on land ownership.
 Land Reform Policy Group Consultation Reports: Identifying the Problems Identifying the Solutions Recommendations for Action Proposals for Legislation 	Commentary and summary of representations made on issues of information about rural land ownership, in the context of the land reform debate.

Various written representations from consultees to Detailed information on issues and opinions of non-confidential the Land Reform Policy Group.

Consultees on issues associated with information about land.

Selected statutory, non-governmental and Specific views of agencies on land information debate, access to individual consultees including Registers of information on existing data sources and present initiatives to Scotland, RSPB, RICS Scotland, legal experts and disseminate information.

Highland Council.

Initial consultations were undertaken with relevant organisations and individuals through meetings and telephone interviews. These discussions were used to draw out key issues in terms of existing availability of information on land holdings, uses of information on land and views of the organisations on the usefulness of existing information.

The results of the information review and initial consultations were reported to the Scottish Executive in an *Inception and Survey Design Report*. This report also allowed initial proposals on the format for a survey of rural organisations to be presented.

3.3 DEVELOPMENT OF QUESTIONNAIRE SURVEY

Purpose of the Survey

The second stage of the study involved the development of a questionnaire suitable for use in a postal survey of a sample of rural agencies, organisations and individuals with interests in information on land holdings. Although a significant amount of information on the issues had been obtained through the information review in the first stage of the study, it was considered important to undertake specific and targeted primary research on the subject of information on land. This was necessary to obtain a clearer understanding of the nature of the demand for information which was being articulated by a number of groups, and to provide an opportunity for organisations to reflect on the issue of information about land separately from the wider (although clearly related) debate about land reform.

The survey was designed to provide detailed information on the issues surrounding information about land. A survey which would provide statistically valid data was not considered to be appropriate given the complex and largely qualitative nature of the issues involved. Instead a relatively detailed questionnaire was developed and issued to a sample of rural organisations to seek feedback on the issues of concern.

Development of the Sample

Identification of the population of organisations (and individuals) with views on information about land was not clear cut and in theory could extend to almost all entities with some interest in rural land. The sample was therefore developed by attempting to identify potential users of information on land holdings, since they would have direct experience and comment on the key issues, as well as including a smaller number of other groups who could be thought of as representatives of information users.

In addition, due to the diversity of agencies and individuals with an interest and opinion in the land reform and information subject, a selection of other groups for example including NGOs, experts and academics and land owners was included in the sample. Whilst these groups are not direct users of information, their views were thought to be of relevance and such non-users could include potential contributors of information on land ownership.

A comprehensive list of around 270 organisations and individuals was developed, from which a sample of 167 was selected which was considered to be sufficient to achieve a response of around 70-80 questionnaires. Although the sample was developed non-randomly, it was ensured that there was adequate representation of organisations within each of the sub-groups of the sample which were divided as follows:

- public bodies and utilities;
- local authorities:
- community councils;
- rural partnerships and community groups;
- agents and surveyors;
- landowners and private organisations;
- non-governmental organisations;
- other organisations and individuals.

The full list of individual organisations in the sample is included in *Annex A* to this report.

Survey Design

Initial proposals for the survey were presented in the *Inception and Survey Design Report*. These included a first draft of the proposed questionnaire and a suggested sample of organisations and individuals. Following discussions with the study advisory group the questionnaire was developed in more detail and revised to take account of the comments of the Scottish Executive.

The final version of the questionnaire is included in *Annex B* of this report.

Survey Management

Pilot Survey

The questionnaire was initially issued to a sample of 5 organisations during mid February for piloting. The response from the pilot survey was particularly slow (despite adding a further

five organisations to the pilot sample) and following discussions with the Scottish Executive Environment and Rural Affairs Department (SEERAD) it was agreed to proceed with the full questionnaire survey. However, one response to the pilot was received in late March prior to the issuing of the full survey and this indicated no particular difficulties with the questions or format of the questionnaire.

Main Survey

The questionnaires were sent out to the full sample of over 160 organisations during the last week of March 2001, requesting responses by 16 April. As with the pilot survey, the level and speed of response was slow with fewer than 30 replies being received by the end of April. In order to effect a better level of response to the survey, follow-up telephone calls were made to all non-responding organisations to ensure that the questionnaire had been received and to request a response or issue a replacement questionnaire. Around 25 replacement questionnaires were issued and a significant improvement in response was achieved. 73 questionnaires were returned altogether.

3.4 SECOND STAGE CONSULTATION

Information from returned questionnaires was entered into an Excel spreadsheet set up for the analysis of responses. Following receipt of all returned survey questionnaires, the information obtained was analysed in order to define in more detail the key issues for the study. The results of the analysis of survey data are presented in *Annex C* of this report.

Once the analysis of survey returns was undertaken, a second stage of public consultation was planned. The focus for this work was the preparation and facilitation of two multiagency workshops which were held in June 2001, one in Edinburgh and one in Inverness. A range of organisations across the sample was invited to attend these workshops, and around 10 participants attended each event. The workshops allowed the results of the questionnaire survey to be presented and discussed and this was followed by a structured discussion of key issues identified by the study team and other issues which participants wished to raise. The workshops were found to be particularly useful in developing the study team's understanding of the issues and allowing for their more detailed examination. A list of the organisations represented at the two workshops is provided in *Annex D1*.

The workshops were then followed up with a final round of meetings and telephone consultations with selected organisations in order to confirm and discuss some of the issues raised in workshops, to re-contact a number of questionnaire respondents and to hold discussions with organisations who were unable to attend the workshops. The findings of the research, developed during each stage of the study are presented and discussed in *Chapter 4* which makes reference to supporting information obtained from the survey. A list of all organisations consulted during the study (in addition to the workshops) is presented in *Annex D2*.

CHAPTER FOUR REVIEW OF EXISTING INFORMATION SYSTEMS

4.1 INTRODUCTION

The research has indicated that there is a wealth of different sources of information about land holdings, although there is a great diversity in the quality of these and in respondents' awareness and use of these sources. In this chapter we have reviewed the existing sources of information on land holdings, and in particular any existing databases and systems. We have also distinguished between sources of information and organisations who simply hold information for their own use and which is not generally accessible by others as a 'source'. Further commentary is provided in *Chapter 5* on the level of use and awareness of these systems, and problems identified with them.

4.2 PUBLIC SOURCES OF INFORMATION ON LAND OWNERSHIP

The Registers of Scotland

Register of Sasines

The Sasines Register is a historical record of land transactions in Scotland, having been in existence since 1617 and now maintained by the Registers of Scotland. It records title deeds and is therefore the definitive source of information on land ownership for legal purposes, although unlike the Land Register (see below), inclusion of property on the register does not confer rights to title. The register however is not plan based and it has to be searched according to either the name of the owner or the address of the property. It is publicly accessible (at the offices of the Registers of Scotland in Edinburgh). It currently costs in the region of £2-4 to view one property title (2). Wide area ownership searches can be both time consuming and expensive.

Land Register of Scotland

The Sasines Register is being gradually phased out following the establishment of the Land Register of Scotland in 1982 ⁽³⁾. This is a register of interests in land. The Land Register of Scotland is a map-based system maintained by the Registers of Scotland, and like Sasines, includes definitive information on both urban and rural property and land. Map bases show property at 1:10,000, 1:2500 or 1:1250 depending on whether it is rural or urban.

The Land Register differs from Sasines in that it provides *registration of title*, and all titles entered on the register are guaranteed by the government. However, it is presently incomplete since not all counties have been brought into the system (this is predicted to take until 2003), and even for those counties which are presently included, properties are only entered onto the database following a transaction. Given the turnover of property sales generally and in

⁽²⁾ The search fee is £2 in respect of each element of the Register and approximately £4 if both the Search Sheet and Presentment Book are searched.

⁽³⁾ Although the Land Registration (Scotland) Act which introduced the Land Register was passed in 1979, the system did not become operational until 1982.

particular the number of properties which are held by companies and trusts or transferred through inheritance, it will be many years before all land is registered in Scotland so long as land sale remains the primary registerable event. Titles for land which has not been transacted can only be identified through the Register of Sasines.

The Land Register is a map-based system and charges are £2 for a search of the index map and £4 for a search of the Title Sheet or the Application Record which is a list of pending applications for registration. Costs, however, can be significantly more in complex cases. The register may be searched if the title sheet number is known, or alternatively by searching the index map with either information on the name of the property or its address or its approximate location. In the latter case the system's maps can be used to search and locate property.

Registers Direct

The Register of Sasines and the Land Register are currently being developed by the Registers of Scotland as computer based systems which can be accessed on-line. The paper documents held on the Sasines Register have been fully digitised (as Phase 1 of the initiative) and have been made available in this form to around 500 account holding organisations since January 2001. These include solicitors, local authorities, banks, building societies, the Inland Revenue and Customs and Excise who can search the entries electronically through internet access. Phase 2 of Registers Direct, which will deliver the Land Register element (including access to title plans and the Index Map) is currently undergoing live trials and is expected to be available in autumn 2001.

The completed Registers Direct system is intended to be made available to approximately 1,500 commercial users including legal and financial companies and local authorities. Subscribers will pay to search the registers at a charge of £2 per property for the Sasines search sheets and £4 per property for those on the Land Register and can then print off the documents. The RoS intend that Registers Direct will eventually become accessible from a wider range of locations such as libraries and community centres and eventually the worldwide web, which will vastly enhance the ease with which individuals and organisations can identify information about land ownership.

Scottish Land Information System (ScotLIS)

This system is intended as an information gateway providing access to a range of information about land and land use. The concept was initiated by the Royal Institute of Chartered Surveyors (RICS) in Scotland, following an initiative in England called 'Domesday 2000'. It has a number of contributing partners including the Registers, which are providing information related to land and property. The system has yet to be developed nationally although a pilot is currently being operated.

ScotLIS is primarily a one-stop shop for access to information on land and property which will be of use to organisations such as local authorities, surveyors and planners, and will provide access to data from a variety of different sources. It is intended that amongst these sources will be the Registers of Scotland which will provide land ownership data, through an

electronic link to the Registers Direct. Other current data contributors to the pilot scheme include Glasgow City Council, the Coal Authority and the British Geological Survey.

The development of ScotLIS has experienced significant delays, having been started a number of years ago. Some of the existing and potential service providers to ScotLIS may have developed other methods of delivering their services to customers although this does not necessarily conflict with what the current model for ScotLIS sets out to do.

Regional Landownership Databases

The Highland Council Landownership Database

The Highland Council has developed a map-based database and GIS which holds details on ownership of land holdings above a threshold size.

The project began in 1995 and attracted ERDF funding. It was established in recognition that more information was needed to help monitor the Council's policies for a more egalitarian pattern of landownership. The database came about as a result of political pressure, in particular as a result of interest in the pattern of ownership of large estates in the Highlands.

A legally definitive system was not the aim of the system, but rather one which provided overall broad-brush coverage of the Highland region. Although the original intention was to include all properties greater than 20 hectares (ha) in area, the database currently includes only properties greater than 100ha (presently 1,231 properties in total), plus a significant number of, but by no means all, smaller properties. The system currently covers around 95% of private land (by area) in the Highlands. Information on land holdings was identified from major public landowners such as Forest Enterprise, through contacting large private estates and through detailed research of the Register of Sasines (4). The Sasines search sheet number for each property appears on each database record to enable users to quickly access the definitive records at the Registers of Scotland.

The database is operated on a standard PC using widely available GIS and database software (ArcView and MS Access respectively) and the mapping of holdings is at 1:25,000 scale.

The system might be considered to be 'coarse grained' in that the level of detail across the area is not consistent, and at 1:25,000 scale, boundary information cannot be precise. However, the developers of the system acknowledge that the level of detail on holdings is variable. A grading system of completeness/certainty is applied to each record in the database to highlight this to users and no claim is made to being a legally definitive record. It is therefore not suitable for use as an information source for legal and conveyancing purposes. What the system does provide is a first port of call for information about larger land ownership throughout Highland for planners, policy makers, public agencies and members of the public. Copies of the system have been made available to SNH and the Scottish Landowners Federation for a small annual charge.

⁽⁴⁾ Highland has yet to be included in the Land Register.

The Council have indicated in consultations that the database is regularly used internally and found to be a useful tool. It has more limited external use, but has been used by countryside rangers, the Highlands and Islands Film Commission, some community groups and SNH.

The cost of setting up the system, which will be examined again later in the study, is estimated by the Highland Council to have been around £80,000. This figure is around twice the original project budget and the major element of originally unforeseen costs related to staff time for digitising the land boundaries. Annual updating costs are estimated at £4,000 which allows for two rounds of research of the Register of Sasines to check for new property transactions and for obtaining the relevant title plans from the National Archives of Scotland.

The Argyll & Bute Landownership Databases

At the initiative (and funding) of Highlands and Islands Enterprise (HIE), a similar system to the Highland Council database has been established by Argyll and Bute Council covering the area of the local authority plus Arran. The system was developed in 1998 but has not been maintained since, and consultations with the Council indicate that very little recent use has been made of the information from the database by HIE. The local authority has also made little use of the system, partly due to limited awareness of the information available, but also, differing issues and attitudes towards land ownership in Argyll and Bute from those in Highland.

Information Held by Local Authorities

Other local authorities also hold a variety of information on land holdings though there is no set pattern or formula for such data. Some of the consultees contacted during the study indicated that they had often obtained information from local authority planning departments on the status, ownership or extent of certain landholdings although there was no guarantee that information would be available. In some cases, for example where planning applications have been submitted, the local authority will have information on owners or occupiers, addresses and boundaries of properties.

Local Rolls

Valuation rolls and the Council Tax Valuation List are kept for business rating purposes and domestic property Council Tax banding respectively by organisations called Assessors which are generally geographically organised along the boundaries of the former Regional Councils prior to local Government reorganisation in 1996. The Valuation Roll can provide names and addresses of the principal non-domestic occupiers of property in the area (which are updated annually), although plans and boundaries cannot be obtained from these records, which are not map based. Both sources provide information on occupiers rather than owners.

4.3 OTHER HOLDERS OF INFORMATION

This chapter briefly reviews other records of information on land holdings which have been identified during the study. They have been distinguished from the true sources of information presented in *Section 4.2* since they are not generally accessible by the public or other organisations.

Integrated Administration and Control Scheme (IACS)

The Scottish Executive Rural Affairs Department have a database of farm holdings (the Integrated Administration and Control Scheme (IACS) system) throughout Scotland which is based on annual returns by farmers. However information from farmers is obtained on a confidential return basis and the Scottish Executive has indicated that the data cannot be made available to other parties.

Farm information provided in the IACS return is currently understood to be reported in two sections - farm returns (which details yields, cropping, livestock etc) and farm boundary information. It has been suggested during the study that the nature of the returns could be separated so that, for example, farm return data could remain confidential but information on boundaries be made publicly available, provided its intended use was made clear to those returning information (data providers).

However, the usefulness of the information held on the IACS database relating to land holdings and boundaries is complicated by the fact that returns are based on areas under agricultural production, rather than on ownership of the land. This means that where a farmer (whether tenant or owner or both) has productive land which covers more than one land holding, or parts of holdings, it is the area of land under production by that farmer which is reported in IACS rather than any distinction among the different holdings' boundaries or owners. Land that is not in production will not be included.

Crofters Commission Database

A Register of Crofts has been maintained by the Commission since 1955, however its contents are confidential and the system is known to be particularly inaccurate and in significant need of updating. The Register contains details of croft land ownership and tenancy, although data protection prevents its public use and the Commission has indicated that around £1 million would need to be spent to bring the system up to date.

Other Public Agencies

A number of other public sector agencies and organisations hold databases of information on rural land holdings, as part of the management of their own land holdings or to assist with negotiations and agreements on access or management with other landowners.

For example, the Forestry Commission is a significant owner of land in rural Scotland and a database of holdings is maintained.

Scottish Natural Heritage (SNH) also keeps a database of information on land and landowners. As well as owning a small but significant area of rural land, SNH also requires information on neighbouring and separate holdings in order to fulfil its statutory functions with regard to access, conservation and landscape.

Utilities

Information on land is particularly important for water, gas, electricity and telecommunications utilities in order to access land for surveys and development. Consequently, utility companies have significant land ownership records, although these are usually held in confidence.

Other Holders of Information

A number of other potential sources of partial information on multiple land owners have been identified. These include:

- grant awarding agencies applicants for, and beneficiaries of, for example, conservation, agricultural and forestry grant schemes are usually required to submit details of the relevant land holding to the awarding agency;
- large property management companies which handle private and public land sales and management;
- search companies;
- local knowledge (including post offices and practising architects), solicitors, estate agents, Wightman book (5).

The information sources, and other holders of information identified through the study are listed and summarised in *Table 2.1* in *Chapter 2*.

4.4 SOURCES OF INFORMATION ON BENEFICIAL OWNERSHIP

The study on rural land holdings has also examined the issue of beneficial ownership, particularly in the context of availability of information on the beneficiaries of land, to determine whether survey respondents and consultees hold particular views.

Beneficial ownership is an English law concept applicable to land held in trust, although the term is sometimes used in Scotland. English trust law divides the ownership of the trust property between the trustees (who have legal ownership) and the beneficiaries (who have beneficial ownership). This idea of divided ownership has not been adopted in Scots law. In Scotland, it is restricted to formal trusts, and even here the beneficiary does not have any right of ownership. The property is owned by the trustees and the beneficiary can only require the trustee to implement the trust purposes. In Scotland, therefore, ownership is not

⁽⁵⁾ Wightman A (2000) Who Owns Scotland. Canongate Press.

divided between a trust and a beneficiary and the trustees own the property, subject to the terms of the trust.

If someone owns property as nominee for another, then the legal title (and consequently the ownership) belongs to the nominee. The other party may be regarded as the beneficiary. This is similar to a trust relationship. As the nominee's name would be on the register as owner, a purchaser would be free to deal with the nominee regardless of the "trust", the beneficiary being restricted to pursuing the nominee for damages.

The concept of beneficial ownership differs from that of legal ownership, in that the former deals with those who benefit from the ownership of the property (and/or land) rather than those who have legal title to the property. In many cases there may be complex arrangements regarding exactly who is the beneficial owner of land, particularly where trusts are involved.

Although it is possible for the beneficial owners of a property or land holding to be registered on the title deeds (and therefore identified from a search of the Register of Sasines) there is no legal requirement for such information to be disclosed.

The findings of the study with regard to beneficial ownership, and in particular the arguments over improving access to information on beneficiaries in discussed further in *Section 5.8*.

CHAPTER FIVE RESEARCH FINDINGS

5.1 INTRODUCTION

The questionnaire survey provided a significant level of information from a wide range of organisations and individuals on information about land ownership which is summarised in *Annex C*. As previously discussed in this report, the survey was designed as a means of obtaining largely qualitative information on a range of issues on information about land. This is not least because of the difficulties of establishing the full extent of the population of 'users' of information about land in rural Scotland from which to determine a representative sample.

The quantitative results presented in the previous chapter should not therefore be interpreted as statistically representative but as broad based indicators. However, given the high response rate achieved for the survey and the corroborative nature of information obtained through the literature review and consultations, the views expressed by the sample selected appear to be a good representation of the spectrum of views on the issues.

In this chapter we discuss the issues, based on the feedback obtained from the survey and also from consultations undertaken before and after the survey, including the workshops held to discuss and probe further into the findings of the questionnaire survey. The discussion has been structured around a number of key issues which have emerged from the study, in particular themes which have developed during consultation following the survey.

5.2 USERS AND USES

A crucial aspect of the study has been to understand the nature of the demand for information which is being expressed among the sample of organisations contacted. By understanding what information these organisations need, or are demanding, and their characteristics as users of information, then a clearer picture can be obtained about how needs may be matched by supply of information.

The results of the survey have clearly shown that, for all of the organisation types in the sample, a strong demand for information is expressed. The survey has also elicited information on the types of use to which information on land holdings is put. However, what appears to be more useful is to define the different types or categories of user groups, the information they need or want, and why. Discussions at the workshops suggested that four possible categories of use could be defined. *Table 5.1* shows these information uses and lists the types of organisation typically involved in each type of use.

Table 5.1 Defining Information Types and Users

Typical User Groups	Type of Information	Purpose of Information and Frequency of Use
Very regular users seeking details of title <i>eg</i> solicitors, agents and surveyors	Information such as title documents, deeds and plans for specific parcels of land where ownership is already known, including information on burdens, rights and boundaries	defining boundaries, burdens, rights <i>etc</i> on a small number of holdings needed for transactions and other dealings with land • Used on a regular, day to day basis
Regular users seeking information on ownership of areas of land eg utilities and developers involved in site selection and land survey or acquisition, central and local government and agencies	over broad areas	 To assist with contacting landowners and occupiers across wide areas potentially involving many holdings for purposes of access, use, development Ad-hoc, as part of wider area searches on land for projects or policy development
Occasional users seeking information on who owns specific locations eg community organisations and councils, individuals	1	 To identify local contact points for single holdings of specific areas of land for purposes of contacts, representations to owners, arranging events <i>etc</i> Infrequently, as needs arise
Infrequent users seeking information on patterns of ownership eg researchers, academics, journalists, NGOs and public sector agencies	• Information on land ownership type (eg distribution of ownership)	

The classification of user types in the table also suggests (and consultation has confirmed this), that the organisations using detailed and specific information on titles as part of their day to day activities have well developed mechanisms for obtaining the information they require, the expertise to understand how and where the data may be located, and the resources to extract it. In other words, the most frequent users of information have the least difficulty in obtaining what they require and in the survey, were least likely to be dissatisfied with the existing systems. Clearly, whilst such organisations have a substantial demand for information on land holdings, this demand is to a great extent satisfied by the definitive service provided by the Registers of Scotland.

However, whilst legal companies need information on properties and holdings on an almost daily basis, this is usually for a relatively small number of holdings for which information about address and owner will usually be known, making the process of searching Sasines relatively straightforward and affordable. Organisations wishing to establish ownership and/or boundaries in much wider 'sweeps' of land (eg developers and utility companies undertaking area searches) are more likely to find the Registers a less effective means of obtaining information, particularly in areas where titles are not covered by the Land Register (which is plan based, but does not currently cover all of Scotland and is not comprehensive). They instead have to rely on a number of different approaches and sources to obtain the required information.

Smaller local groups and community organisations with only occasional information needs regarding specific plots of land can often rely on local knowledge to help identify ownership. However, the research has shown that there have been cases where identification of ownership is difficult for communities and local knowledge may not always suffice.

In order to further analyse the characteristics of the range of organisations demanding information on land holdings, it is also useful to attempt to match the categories of information users presented above with the sources of information which they typically use. A range of possible sources for each user group are therefore presented in *Table 5.2*, based on feedback from the surveys and from consultations.

Table 5.2 Information Sources Used

Information User Group	Typical Information Source(s) Used	
Legal and Professional	Registers of Scotland (including via search companies and	
	links such as Registers Direct and ScotLIS)	
 Utilities, private developers and Government 	• In-house records and legal teams, land referencing	
	companies, direct contacts with occupiers and public	
	agencies	
 Community Councils and Organisations 	 Local knowledge, local authorities 	
 Researchers, NGOs and others 	 Published sources, public agencies 	

Clearly there are some overlaps across sources used by different groups and the table is not intended to definitively characterise the sources used by different users. Nevertheless, it might be argued that those groups with a less regular need for information are more likely to try to obtain the information from local sources and less likely to make use of the Registers of Scotland, possibly due to cost, accessibility and awareness but more significantly perhaps, because they can obtain the information they need without needing to use the Registers. This assertion is supported to some extent by the finding from the survey that twenty three of the thirty one organisations who expressed a need for information but had never requested information from the Registers were community councils, rural partnerships or community groups.

In addition, consultations with regular users of information on land have tended to corroborate the view that the Registers of Scotland provides all the information that is usually ever required on land ownership, and searches commissioned at the Registers or via professional search companies yield the required information in the majority of cases. This view appears to be held in particular by members of the legal profession and other private sector organisations working in fields where land purchase or sale is part of routine business. The characteristics of the groups of users of information about land ownership, and the nature of their information needs is clearly an important basis for understanding the key issues associated with information on land and interpreting the information obtained during the study. The next sections look more closely at existing information sources, their quality and accessibility and discusses the feedback received with respect to improving information on land holdings.

5.3 AWARENESS OF EXISTING SOURCES

Awareness of information on land holdings appears to be closely related to the type of information user group and frequency of information requirements, as defined in *Section 5.2*. For example users in the first two groups such as legal professionals, developers and utilities have a clear picture of what they require, the information systems available and the quality and quantity of data which can be obtained from these sources. Organisations who may be less frequent users of information on land, and who may not necessarily obtain information

from a single source, tend to have less experience and a lower level of awareness regarding what information is available.

The questionnaire responses clearly indicated a fairly high level of awareness of the Registers of Scotland as a source of information on land holdings, together with good awareness of other sources, in particular local authorities and valuation rolls. Nevertheless, the proportion using current systems is significantly lower than the proportion aware of them. The main reasons for this appear to be related to perceptions of quality and completeness of existing data and the issue of accessibility to information (which is addressed in *Section 5.5*). It is also likely that in some cases, for example for irregular users of information such as community organisations, the required information on land holdings can be obtained by asking locally without recourse to the Registers.

5.4 USE OF EXISTING SOURCES OF INFORMATION

Introduction

In addition to the issue of awareness of information on land holdings, study research has indicated that the ease of access to information, as well as the quality of information available, appears to significantly influence the perceptions of consultees about existing information and the success they have had in accessing the data they require.

In common with awareness of information sources, experiences with use and access to information differ according to user groups. This section therefore discusses issues of access to information and uses of information according to broad user groups.

Frequent Users

The most frequent users of sources of information on land holdings in Scotland generally correspond to those who have specific information requirements, in particular professional organisations such as conveyancing solicitors and land agents. These groups are typically regular users of the Registers of Scotland (Sasines, but increasingly the Land Register as its coverage is expanded), which provides the definitive and authoritative information they require.

However, the survey results do indicate that some groups, which tend to be among the more regular users of information on land holdings, still appear to have difficulty in obtaining the information they need from current sources. This suggests that there may be an (albeit lesser) issue of access for such users to definitive information such as the Register of Sasines and the Land Register. It may also, however, be a function of frustrations experienced by organisations who have been unable to obtain information from the Registers (eg because of the presently limited coverage of the Land Register) and then have been required to find alternative ways of investigating ownership for example. Examples might include developers and utilities who have a requirement for information on land ownership over large areas which cannot always easily be satisfied by time taking searches of the Registers.

Infrequent Users

The organisations who are not regular users of the Registers of Scotland or who have limited past experience of obtaining information appear to have most difficulty in accessing information on land ownership. This may be for a number of reasons, including:

- lack of awareness that information exists and is in the public domain;
- limited knowledge of the Registers or other potential sources of information and how to access and use them;
- a perception that special skills are needed to understand and use the information systems available;
- lack of awareness of how to make 'the first step' to identifying information (eg who to contact or ask);
- limited resources (financial or time) to spend on tracing information;
- a perception that information on land is difficult to obtain, or is in some way private, which discourages further action.

These reasons help to explain in part the anomaly in the results of the survey concerning organisations who stated that they needed information on land ownership but who had never attempted to access any of the existing sources. These findings are supported by comments made by consultees that among groups who are less familiar with what information is available, and where and how to access it, there may be a 'lethargy' which stifles attempts to obtain the information which is sought.

Consultations have also indicated that many smaller and community organisations may not need to use the Registers as it may be that they just need to obtain a land holdings contact for example to organise or get permission for an event (*eg* orienteering course). It has also been suggested that there may be two levels of information which are being sought on rural land:

- basic, local information on local land ownership and other land issues (access etc)
 which could be made available in local facilities such as community halls, shops,
 libraries etc; and
- detailed information about ownership and patterns of ownership at a strategic level which is used for other purposes and, for example by professional organisations, which needs to be transparent.

This confirms to some extent the 'typology' of users, and information types presented in *Section 5.2* suggesting that there are different information requirements and levels for different groups of users. From this it can be postulated that a single source of information attempting to meet with these needs might not be appropriate. It might be more effective to define different sources for different types of information based on the range of user groups and uses of information picked up from the responses to the survey, and based on the apparent confusion about what information already exists in the public domain and how it can be accessed.

The study findings also suggest that improving awareness of existing information sources and how to access them may be of higher priority than the development of another information system. This conclusion is borne out to some extent by the findings in the survey (in which substantially fewer respondents considered a new information system was necessary than the

proportion which had indicated they needed information on land) but also more implicitly in the discussions held during workshops and consultation.

5.5 PROBLEMS WITH EXISTING SOURCES

Common Issues of Accessibility

A point which has been regularly made in both survey responses and consultation has been to acknowledge that there are many different potential sources of information, but that only the Registers provide comprehensive and definitive data. The existence of so many sources in different formats and locations suggests a duplication of effort and resources in their development and updating, and some groups expressed frustration that there was no means of harmonising or linking these disparate information sources.

The issue of information sharing appears to have been hindered by difficulties such as IT compatibility, availability of information technology to harmonise systems and the fact that much information is paper based and would have to be digitised for use in electronic systems. More significant however has been the issue of confidentiality of land ownership information, and data protection, which was regularly raised during the research as a barrier to harmonisation. The difficulties of confidentiality appear to arise where information on land has been provided to an agency on the understanding that the information is to be used for a specific purpose and that its disclosure for other purposes will be prohibited. Examples of this include:

- the Scottish Executive's IACS system which is a record of information returned from farmers comprising details of the land holding (the "field information system" which includes a plan and the name and address of the occupier) and agricultural data on yields, inputs and finances;
- land information held by utilities and other large developers which has usually been provided by landowners (and/or occupiers) during land ownership investigations as part of development feasibility work. Utilities view such information as having been provided under a "contract" between themselves and the landowner and consider it unprofessional, if not illegal, to disclose it further; and
- databases of landowners held by other organisations such as the Crofters Commission which administers a Register of Crofts (albeit of limited accuracy and non map based) but the contents of which are also considered to be confidential.

Confidentiality and data protection issues therefore restrict access to some of the sources of information about land ownership and these issues are addressed further in *Section 5.6*.

However, even if information from such systems was to be made more readily available, it is arguable whether the land holdings data within these sources could provide the comprehensive coverage which some are seeking. For example, disclosure of the field information system component of IACS would provide details of farm occupiers rather than land owners, and boundaries relate to areas under agricultural production by each farm rather

than the boundaries of ownership (many farms will cover more than one holding and may include parts of holdings). Data held by utilities will be comprehensive and accurate in certain areas but totally absent in others, and databases such as the Register of Crofts are notoriously inaccurate and out of date.

Other information sources, which are publicly accessible, can provide some information on land holdings, but again have limitations. For example Rolls of domestic council tax payers record occupiers rather than owners and no boundary information is included.

Despite the range of potential sources of information on land holdings, we have highlighted in this section that restrictions on access and limitations of data held in such systems mean that as individual sources at least, they offer a far from comprehensive source of information. Harmonisation of these disparate systems has been raised during consultations as a possible means of addressing present shortcomings in non-definitive information systems and is considered later in this report as an option. However, given the gaps in present systems, it is unlikely that harmonisation of a number of these systems could ever offer anything like a comprehensive data source.

Quality of Existing Information

The research also sought to probe the perception of the quality of information on land holdings currently available. Perceptions of quality of information appear to be strongly related to respondents' information needs. For example, whilst the Register of Sasines provides legally definitive information on title deeds for land and property, because it is text-based it is less useful to organisations who require accurate information on the areas and boundaries of land holdings. Although most respondents during consultation recognised that the Land Register provides a quality of information which is much more in line with users' needs and expectations, the relatively low level of coverage of the Register was of concern to many organisations, a view confirmed by the 86% of respondents to the question (50% of the total responding) who considered that the Land Register should be completed more quickly. As highlighted in the survey results (see *Annex C*) one of the key comments made by survey respondents on the quality of existing information is the need for accurate plans of land holdings and the provision of comprehensive coverage by the Land Register.

The issue of information needs relates closely to the discussion in *Section 5.2* about the different groups of information users and the typical information sources they access. For example the legal profession typically makes use of the Registers where definitive information on title deeds can be accessed. Regular users of the Registers generally consider them to provide a service which is good value for money, as indicated by the survey results in which only three of the 39 organisations who had used the Registers considered the cost to be unreasonable.

Utilities and developers often need information on land ownership over a wider area (eg possible routes of power or pipe-lines). Some of this may be obtained from Sasines or the Land Register but usually it involves direct enquiries of occupiers (on-site land referencing activities), particularly in areas where the Land Register's coverage is low. For example, one utility had recently spent around £14,000 to search the Register of Sasines to provide information on only 12 landowners due to the complexity of the search. This suggests that

the limited coverage of the Land Register means that many organisations have to undertake complex and time consuming searches of Sasines.

In addition, whilst patterns of ownership of large holdings in remote rural areas (such as some parts of the Highlands) are often relatively straightforward, many consultees noted that the number and complexity of land holdings increases significantly in lowland areas (for example where there is a greater diversity of land uses and proliferation of farming units) and on the urban periphery where land is under greater development pressure. Obtaining information on land holdings in lowland and peri-urban areas is therefore more complex and difficult than in remoter areas. This may help to explain the difficulties that organisations such as utilities encounter in identifying land ownership information for their developments, which will regularly relate to areas of denser population such as the urban fringe or areas of settlement. Similarly, organisations such as RSPB, SNH and Historic Scotland have all encountered difficulties in identifying landownership during the process of designating statutory sites or arranging management agreements, and this may be explained in part by the (frequent) location of such sites on land close to, or within rural settlements.

Organisations requiring contact or ownership details of specific plots (*eg* for community purposes) may rely on local knowledge or sources such as local authorities and are less likely to access the Registers.

The research has indicated therefore that perception of quality of information is related to the issue of 'fitness for purpose' of the information, or matching the required type of information with the information need and the information user. Where organisations have greater difficulty in obtaining the information they need, then their view of the quality of information available tends to be influenced accordingly. This suggests that the quality of information available is less important than groups' perceptions of what data are in the public domain and how they can be accessed.

5.6 SUGGESTIONS FOR REMEDIES

Improving Existing Information

The previous sections have identified that there is already an extensive amount of information available in Scotland about rural land holdings, albeit that the non-definitive sources (ie those other than the Registers) are currently disparate, not familiar to many organisations and none appears to be comprehensive in its own right. Whilst the survey results have indicated that there is considerable confusion about information on land holdings, the study research has also provided feedback on ways in which information and information systems might be improved. In this section we have considered some suggestions for such improvements to existing systems.

Participants at the workshop held in Edinburgh considered that in addressing the issue of how information could be improved, it was important to firstly understand the fundamental principles which should apply to an (ideal) information system. The points arising from the discussion are presented in Box 5.1 and provide a useful starting point from which to consider the important features of an information system and by which to assess options for future action on information systems.

Box 5.1 Key Principles for an Information System

- careful definition of the objectives for the system (since different systems may be developed for different needs);
- the system should be appropriate for its use ('fitness for purpose');
- the system should have comprehensive coverage of the land area (ideally 100 per cent);
- it should be accessible (in physical terms) and affordable;
- easy to use and easy to understand;
- the level of authority of the information held, together with its precision and accuracy should be made clear to users;
- the system and its information should be transparent;
- it should make best use of information technology.

An overall point of importance made at the workshop was that information needs to be comprehensive to be of real use. There appears to be little point in using resources on introducing another system which has the same, or other, missing elements of information as existing systems.

Improving Quality

It has been generally recognised during consultation that the Land Register provides a good quality of information (together with Sasines, it is the definitive source), and its coverage is increasing all the time, albeit at a slow rate. In view of this, many respondents considered that speeding up the process of land registration was the priority. The results of the questionnaire survey supported this view with nearly 90% of those responding on the issue in favour of acceleration of completion of the Register.

Registration of title to land on the Land Register is currently only undertaken upon the sale of property, and the county coverage of the system is not yet complete. Although the remaining counties (including Highland) will be brought into the operation of the register by 2003, the coverage of the register in terms of both area and number of land holdings is currently very low because it depends on transactions taking place. The Registers of Scotland is committed to increasing the number of properties on the Land Register as one of its key aims for the next decade ⁽⁶⁾. Nevertheless, at the current rate at which property is entered onto the system, it is estimated by the Registers of Scotland that it will take over 60 years before the Land Register is anywhere near complete.

During the study suggestions were made on means by which the content of the register could be enhanced at a rate faster than the natural turnover of property transactions. These

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⁽⁶⁾ Registers of Scotland (2000) Registers of Scotland Executive Agency Annual Report and Accounts 1999-2000.

suggestions related generally to means of encouraging "once and for all" registration of land holdings which are not subject to sale, for example through:

- legislation requiring the compulsory registration of land;
- carrot and stick measures for example using a 'stick' approach to require national agencies and perhaps local authorities to register their property, whilst encouraging individuals (other than those selling/buying property) by means such as fiscal incentives to register property;
- suggestions for other incentive mechanisms to encourage registration have included making registration of land a condition for approval of applications for central government and government agency grants. Examples include agrienvironment payments such as ESAs, conservation grants, conservation management agreement payments (eg on SSSIs) and forestry and woodland grants;
- entirely voluntary mechanisms such as inclusion of information within census returns; and
- a more resource intensive process in which public funding was made available to the Registers of Scotland to undertake registration of all holdings with the cooperation of landowners.

Compulsory registration may not be practical in resource terms or politically acceptable. However, the use of the 'carrots and sticks' approach was considered by the Registers of Scotland to be an intermediate approach which could enhance the content of the Land Register such that a complete system might be envisaged within a timescale of around 20 years. A more difficult issue is whether the investment of public funds needed for this approach is justified by the results. Although the Registers of Scotland is a self-funding agency of Government, a programme to speed up completion of the Register would require additional funding as there are clearly resource implications for 1) establishing and managing the registration process and 2) the process of examining and clarifying titles, establishing boundaries from title deeds and if necessary with neighbours, and registering titles in the form of land certificates and maps into the Land Register.

An issue on quality of information which was regularly raised during consultation and the survey related to obtaining detailed and reliable information on small sized land holdings, or on small plots within larger holdings. This process has been made more complex as a result of historical changes in land ownership. For example, there are many instances where single large holdings (such as estates) have become fragmented over time as a result of sales or title transfer of smaller plots within the holding. In some cases, the transfer of title has not been registered in Sasines (either purposely to avoid disclosure, or by oversight) or the boundaries are difficult to establish from the description provided in the deeds. This has created a confusing and often complex pattern of ownership in many areas, in which there are areas where ownership is disputed or simply not known. These areas may never be fully clarified in the Land Register due to the costs of investigation of each holding. The result is that, even with unlimited resources and the political will to accelerate the Land Register, an entirely comprehensive record of ownership is unlikely to be achievable.

As a result it was recognised during consultation that whatever level of resourcing was applied, the Land Register would never be 100% accurate or comprehensive. Consultees at the Inverness workshop generally agreed however that if the system could be 95% accurate then this would be suitable for most user's needs for most of the time.

Overall, however, it appears that as the Land Register progresses it will significantly improve the quality of information available on rural land holdings. Developments such as electronic registration of title direct to the Land Register, and the wider use of the unique property reference number provided for each land certificate will also help to improve the efficiency and speed at which property goes onto the register.

A clear point which emerged from virtually all discussions during the study was the absolute requirement for map based information to be used as part of any land holdings system. In addition, harnessing information technology was clearly identified as a means of both improving accessibility to information but also of improving the quality and presentation of information available, for example through the use of computer mapping packages and Geographic Information Systems (GIS).

Improving Awareness and Accessibility

The survey results and consultation suggest that improving awareness of information may be one of the most important elements of addressing the demand for information on land holdings. Consultations suggest that there may be a number of means of improving awareness. These relate in particular to improving the level of understanding of many organisations with respect to their rights to information on rural land holdings, what information currently exists and ways in which it can be accessed.

Education and awareness raising among those organisations who have limited experience or expertise in using information systems, in particular on how to make the first steps to identifying information on land appears to offer a useful part solution. This could be developed in a number of ways for example through relatively small scale initiatives such as developing and disseminating information leaflets or a via a dedicated web-site. Alternatively, more formal programmes aimed at developing better information about land ownership at community level have been proposed, for example through funding community council led initiatives to establish and maintain information 'registers' about land holdings and land ownership within their constituencies. These issues are considered further in *Chapter 6* which looks at a series of possible options to address the demand for information on land.

A clear message obtained from the survey and consultation has been the need to make best use of computers and information technology as a means of both awareness raising (eg through internet websites providing information) and for direct access (eg provision of computers linked to information technology based sources in local communities). These developments are particularly important with respect to accessibility of information, and potentially offer a means of addressing physical accessibility problems, particularly for individual searchers. The use of on-line information systems is currently being demonstrated through Registers Direct. This system has undergone a successful pilot stage among regular users of the Register of Sasines and the Land Register. It has involved two key elements; conversion of all previous text records into electronically readable and searchable form (maps

and/or text) and development of internet technology to provide remote on-line access to both registers.

Issues of confidentiality and data protection have been regularly raised during consultation as a potential barrier to greater access to information which has already been collated on land holdings. Regulations on data protection apply to all records obtained from the public which are stored on computer files. When an organisation wishes to obtain information about individuals, they are required to complete a data protection form which specifies the purposes to which data obtained will be put. This then constrains the data from being used for other purposes in future, since it effectively forms a private contract between two parties. The implication is that, under the *Data Protection Act 1998*, an information system which includes personal data will need to notify the Office of the Information Commissioner (as a 'Data Controller') of the data they will be processing and specify the purpose for this. The data controller is also required to obtain the consent of the individual before processing personal information.

The implication as far as access to existing information systems is that the data may be considered as confidential since it has been gathered under an agreement with regard to the particular purpose of the information. The issue of confidentiality of databases has been frequently raised during the study and appears to place a significant restriction on access to many databases on land holdings.

Right to Know

The issue of information about land holdings forms a small component of a much wider ongoing debate in Scotland about land reform which has raised a wide spectrum of legal, economic, social and cultural issues and has attracted debate across society including views from land and law reformers. As a result, there are some organisations with particular views on land reform who have called for greater transparency on information about land and who consider that freely available public information should be a 'right', whether or not it is actually required. Discussions during this study have highlighted that there is a "want versus need" issue which may have manifested itself, for example, in the relatively high number of survey respondents who considered that a new information system is needed. This view may be associated with an expectation that there should be greater access to, and freedom of information on land ownership. Consultation has indicated that some organisations responded in this way as a means of expressing frustrations with accessing information, rather than a wide-spread concrete demand for a new database.

Nevertheless, some organisations consider that there should be a public right to know with regard to information on land ownership and that this does not just apply to those who "need to know" (*ie* for a specific purpose), but to extend as a principle of information access for all. It has been highlighted for example that the very establishment of the Register of Sasines demonstrated that the right to know has long been asserted in Scotland since it is a record of declared ownership. It was also highlighted that most democracies readily declare ownership of land and this information is placed in the public realm. Some held the view that the public has a democratic right to demand information even if they do not need it. This right is met by the Registers of Scotland but the issue seems to be that people do not consider the Registers are very "freely available". Two aspects are relevant: they are not free to access and they are not particularly accessible or the outputs are not very understandable to the non-expert.

Several consultees also noted that in other countries, particularly in Europe, there was a much more transparent and accessible system of information on land ownership which includes publicly accessible registers of land holdings, useable without cost, held by municipal governments. In addition to calls for greater transparency, some consultees thought that there needed to be better education of people in Scotland as to what information exists on land holdings and what their rights are with regard to public access to information.

Although the debate over rights to information is not directly relevant to this study, it helps to establish a context for the views expressed in the study about information systems and access to information. Much of the feedback from the study therefore needs to be considered in the light of these wider but linked issues surrounding land reform.

5.7 THE NEED FOR A NEW DATABASE

Demand for a New System

Although the analysis of the survey results and subsequent consultations has shown that the demand for a new information system is not as strong as it might first appear from the data, there are some respondents who are still firmly in favour of the development of a new system. The model most frequently cited is that which has been followed by the Highland Council which was developed through requesting data on the larger land holdings available from organisations such as Forest Enterprise, and commissioning research at the Register of Sasines to help to complete the larger gaps in coverage, such that the system is considered to be reasonably comprehensive for all holdings of 100 hectares or more.

Those in favour of such a system consider its principal benefit to be that it provides a framework from which the Registers of Scotland can be accessed with greater efficiency, and that it provides for different users needs at different levels. For example for many users it might form the only reference point needed if for example they need to contact a landowner. At a wider level it could be used by researchers to analyse patterns of landownership and distribution of landholdings, and users requiring definitive information could use the database to establish some basic information which could then be used to make searches of the Registers speedier and more efficient.

The results of the questionnaire survey indicated that although only 47% of the respondents considered existing information systems to be satisfactory, and 78% wanted better information on land ownership, only 14% of respondents in total considered that a new information system is necessary. In a later section of the questionnaire, respondents were asked further questions about the need for a new information system although in this section, 69% of those responding to the question (and 40% of the overall response) stated that a new source of information should be established, examination of some of the responses identified that quicker development of the Registers of Scotland or better co-ordination of existing sources was what was actually sought rather than a new stand alone system. This suggests that a totally new, independent information system was not supported by the majority of respondents.

Around half of the respondents who considered that a new information system was necessary were community councils and other groups. Since their data needs are likely to be modest and irregular, it is doubtful whether the costs of a new system would be justified given the

relatively limited use such groups would make of it, even assuming that all potential users were fully aware of the system and they were able to access it effectively.

The other organisations suggesting a 'new' system was needed comprised a number of private companies, two local enterprise companies, a local authority and two national government agencies. Clearly these organisations may have a more regular need for information on land holdings, although given their requirement, they will already have some means of obtaining information. Their demand appears to be motivated by difficulties they experience in obtaining information from existing systems. A key issue for these organisations would be the extent to which a new database could provide the coverage and detail of information required, particularly given the need for accuracy of data on ownership and the mix of sizes of land holdings for which information is likely to be required.

Overall therefore, a key question which needs to be addressed when considering a new database is whether the costs of establishment and maintenance are justified by the level of demand for the system and the utility it would provide for users. Given the mix of organisations who stated an interest in a new system, it might be argued that the diversity of information needs and the variable regularity of use among these users suggests that no one single system could cater for all requirements.

The analysis of comments made in the questionnaires also suggests that there is some confusion among respondents regarding whether a new system is in fact required. Harmonisation of existing systems was quoted by several as the best means to obtain the required information and a number considered that the information system should be developed by the Registers of Scotland - in which case it would appear to be more sensible for this to be done using the Land Register and Registers Direct.

Although the survey indicates some support for a new information system on land holdings, issues such as the lack of legally definitive status of information contained in the system significantly reduces the benefit respondents consider it would provide. This is a fundamental issue, since a database which is not perceived to be useful, will not be used and attention might be better focused on addressing ways of enhancing the authoritative systems already in place.

Follow up discussions to the survey have added weight to the view that improved awareness of how to access information is of greater importance than the development of a new information system. Nevertheless, there is a view among several organisations that some form of easily accessible and simple system, which provides a first point of entry to information on land holdings would be a step forward. They have recognised that the level of detail of the system would only be outline (since there is no point in effectively duplicating the Land Register), but by amalgamating information which could be obtained from the largest land public owners with limited research of the Register of Sasines, sufficient information could be assimilated in a reasonably short period of time to provide a useful tool.

Specification

The survey has gathered little detailed information on the cost of establishment of a database. It has, however, ascertained that many organisations regularly use information on small sized land holdings (or plots within holdings). The level of detail of a new database, in terms of a

threshold for area of holdings will significantly influence the cost of a new system both for its establishment and maintenance. As a comparator, the Highland Council database cost around £80,000 to establish based on a land holding threshold size of 100 hectares. Whilst this might be useful for certain organisations dealing with large estates, the survey findings suggest that a national database may need to incorporate a lower holdings area threshold in order to meet the needs of many of those who responded that a new system would be useful. Clearly, as the size of threshold reduces, the number of individual properties to be included in the system (and therefore the research effort and cost) increases exponentially.

It is also important to recognise that the distinctive pattern of rural land ownership in the Highlands, involving a relatively small number of large estates ⁽⁷⁾ and large tracts of ownership by the Forestry Commission, means that establishing a database for Highland was relatively less resource intensive than it would be for other parts of Scotland. The cost of a Scotland wide system based on the Highland Council model cannot therefore be estimated on the basis of land area alone. For example, even though the issue of a database (and this study) relates to rural land holdings only, the patterns of ownership in many lowland areas (such as Aberdeenshire or the Scottish Borders) are often complex and involve much larger numbers of small holdings than is the case in the Highlands.

It is suggested that a new database for rural Scotland would need to rely extensively on successfully obtaining information from the largest public (and private) landowners in the country in order to reduce the amount of other research required. There are, however, many organisations with large rural land holdings in several parts of Scotland. Some of the larger owners are presented in *Box 5.2* along with an estimate of their total land holding where this exceeds 20,000 hectares and information has been identified.

Box 5.2 Significant Land Holdings in Scotland

<u>Organisations</u>	Estimate of Total Area (ha) ⁽¹⁾
Forest EnterpriseScottish Executive (SEERAD)	672,000 ha 114,000 ha
National Trust for Scotland	72,000 ha
Local AuthoritiesCrown Estate Commission	62,000 ha 38,000 ha
• RSPB	35,000 ha
Scottish Natural Heritage	34,000 ha
 Ministry of Defence 	20,000 ha

- Other public bodies and agencies include the Coal Authority, Scottish Enterprise, Highlands & Islands Enterprise and local enterprise companies.
- Other NGOs including John Muir Trust, Scottish Wildlife Trust, Woodland Trust.

(1) Source: Wightman A (2000) Who Owns Scotland.

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⁽⁷⁾ In "Who Owns Scotland", Andy Wightman identifies that over 66% of the land area of the former country of Inverness-shire (which covers much of the Highland unitary area) is made up of estates larger than 5000 acres (about 2020 hectares). The percentages in Ross and Cromarty and Sutherland are 79% and 80% respectively. Only 8% of the land in Kirkudbright is covered by estates this size or larger.

The table above indicates only those areas of land owned and administered by the organisations listed. If a database was to be developed, it would also be important to access information on large private estates and as many existing data sources on land as possible.

Another comparative figure of interest was identified in consultation with the Crofters Commission who indicated that they estimated a cost of around £1 million in order to produce a properly referenced map-based record of crofting tenancy.

The specification of such a database would also need to address issues of level of authoritativeness (including currency and accuracy) and data protection. The Highland Council system, for example, is not advertised to the public, and while occasional public callers have been able to make use of the system, the Council can offer no guarantees on its accuracy. A new system covering all of Scotland would need to be well publicised in order to meet demand and therefore the operators of the system may well need to be indemnified against claims that information provided from the system is false.

The development of a new database represents one of the options available to the Scottish Executive in response to the demand for information on rural land holdings. The technical and resource feasibility of this option is considered further in *Chapter 6*.

5.8 BENEFICIAL OWNERSHIP

Information on Beneficiaries

In many cases, information on beneficial interests in a property cannot readily be determined at this time. A number of different forms of beneficial ownership can be identified. These include, for example:

- properties can be held (by the legal owner) on trust without the beneficiaries of the trust being named on the title, or any trust deed referred to being publicly registered;
- nominees may own property on behalf of offshore companies (or UK companies registered offshore) who have no public record of directors or shareholders;
- nominees may own property on behalf of companies for whom the shareholders (individual or corporate) are beneficiaries.

The case of beneficiaries in the form of offshore companies and trusts (as well as foreign shareholders of UK companies) has given rise to particular controversy due to the difficulty of identifying and tracing company directors, shareholders, trustees etc outside of the United Kingdom. In addition, even within Scotland, it has been observed that private trusts currently are not required to register the names of the trustees or beneficiaries. In the case of discretionary trusts, the beneficiaries of the trust can be altered by the trustees without any requirement to disclose such changes. These complexities suggest that significant changes to company and trust law would be required before any form of disclosure or registration of beneficial ownership could be enforced.

It is worthy of note that foreign ownership or registration of land is not always of concern because of issues strictly relating to beneficial ownership. In some cases it has simply not been possible for the authorities or local communities to make contact with the legally registered overseas owners of land, or in extreme cases with any representative of the landowner at all. An example is in Durness, Highland where several years of effort has not resulted in communication with the owners of an estate held by a Lichtenstein company. This is an issue of absentee landownership rather than beneficial ownership although the difficulties of tracing the owner in this case have much in common with those experienced by groups attempting to identify offshore beneficiaries. Nevertheless, this issue appears to have been confused or associated with beneficial ownership by a number of consultees during the course of the study.

The Argument on Disclosure of Beneficiaries

A number of organisations and individuals have called for greater disclosure of beneficiaries of land in Scotland in order that the public can identify who benefits from the existing pattern of land ownership. This view, together with arguments opposing disclosure are presented here along with supporting information from the survey and consultations undertaken for the study.

The principal argument in favour of making compulsory the disclosure of information on beneficiaries is based on a view that there should be a public right to know about who benefits from the ownership of land. In such cases, very often the registered owner of the land is a legal rather than natural person (eg a company or trust). As such the title deed does not reveal the identity of the natural person(s) benefiting from the land and further investigations of a more detailed nature will be required to ascertain, for example, the beneficiaries of a trust or the directors or shareholders of a company. Whilst this process can often be undertaken successfully in the United Kingdom, where trusts and companies are registered offshore it can become very difficult indeed to identify the beneficiaries.

Compulsory disclosure of beneficiaries has been suggested by some consultees as a means to greater transparency on the issue. This could be undertaken by requiring information on the name and address of the beneficiary trust, company or individual to be provided on the title deed. It is likely, however, that legislation would be needed to effect the required changes in the registration process.

Some commentators have also suggested that ownership of land in Scotland should be confined to UK registered companies and British individuals only, along the lines of steps taken by other countries in Europe such as Denmark. However, it has also been pointed out during consultation that introduction of regulation to this effect will simply encourage ways of evading the law or finding loopholes. For example, non-nationals could continue to make arrangements with a UK nominee who would be registered as the legal owner. Nevertheless, some commentators have noted that requirements such as exclusion of non-nationals and non-UK registered companies from owning land could deter at least some offshore ownership.

The proposal for compulsory disclosure of beneficiaries has been criticised by some groups who have commented that this may not be a workable system, partly because trusts and companies can immediately re-structure following declaration, and partly because of the

complexities of administering and regulating such a process. The difficulty of tracing details of beneficiaries (in particular those who are resident overseas) makes the process extremely complex and resource intensive. Several study consultees also considered that legislative change would be required to empower the tracing of beneficial owners as well as a concerted organised initiative which would need co-operation and support in many cases from overseas authorities.

Apart from the cost implications of obtaining information on beneficial owners, it has also been suggested that disclosure of some beneficiaries is not in the public interest, for example in the case of young persons named as beneficiaries and those who are unaware that they will benefit from land (eg upon death of a benefactor). In such cases it is argued that enquiries about these people would not be appropriate and new regulation of beneficial ownership could adversely affect them. It has also been stated that information on legitimate trusts is already obtainable as many trust deeds are registered in the Book of Council and Session.

A part solution might be to introduce a requirement to register details of beneficiary trusts on the Register of Sasines or Land Register (this is currently voluntary). Whilst this would not detail the actual beneficiaries, it could be used as a starting point in tracing the ultimate beneficiaries in instances where investigation was warranted.

The present recommendation of the LRPG with regard to beneficial ownership is that Scottish Ministers should be given a power to investigate the beneficial ownership of land, rather than introduce legislation requiring registration of beneficiaries. This approach would appear to be more practical and less resource intensive than introducing legislation on compulsory disclosure, but again it would require significant political will to overcome the potential opposition from some landowners and their representatives.

During the study the questionnaire survey was used to try to understand in more detail the information required on beneficial ownership, the proportion of respondents requiring information and the purposes to which information would be put. Very few respondents provided supporting explanation as to why information was needed on beneficial ownership. The issue of public right to know and transparency was raised in a number of cases, and it appears that support for this concept, rather than a regular need for information on beneficiaries, has motivated the respondents.

Options

There is evident confusion between the issue of beneficial ownership and that of absentee owners. While there are a number of well informed individuals and organisations who are seeking greater transparency in disclosure, the results of the survey indicate that for many organisations the issue of having a regular and dependable contact with landowners or land managers is more important than knowing the difference between legal and beneficial owners.

A voluntary process for disclosing beneficiaries would appear to have little effect, particularly since it is the beneficial owners who wish to conceal their identity and are unlikely to volunteer it. The alternative is a regulatory requirement, potentially involving legislation which would require a great deal of preparation time and controversy. Clearly this represents a difficult option and, on the basis of the level of demand for information from the survey, would not be cost effective.

CHAPTER SIX OPTIONS

6.1 INTRODUCTION

This chapter discusses possible measures in response to the demand for information about rural land holdings, based on the analysis of the research findings and suggestions during consultation. Since many of the measures are unlikely to be particularly effective on their own, combinations of compatible groups of measures (options) are then considered and briefly assessed against a number of key criteria. The most promising options are then suggested as possible courses of action for the Scottish Executive to consider.

6.2 MEASURES

This report has raised a number of potential approaches to addressing the issue of land ownership information and accessibility to such information. This section briefly reviews and classifies the various measures which have been suggested during the study on land holdings.

Measure 1: Improving Awareness of, and Access to, Existing Information

Measure 1.1 Awareness Raising Information

The findings presented earlier in this report indicate considerable support for simple means of enhancing understanding of what information is currently available on land holdings, and how such information might be accessed. Awareness raising can take the form of a number of initiatives, although the key suggestion involves developing a booklet describing the 'first steps' to enquiring about land ownership, definitions of terminology, and who to contact for advice, and what sources and types of information on land ownership are presently available This could be widely distributed to relevant organisations needing information and made available at Citizen's Advice Bureaux, Tourist Information Centres, Libraries, Post Offices, local authority offices *etc*.

This approach would entail relatively modest resources, and could directly address the needs of a fairly large proportion of the sample consulted in the study, provided that dissemination was effective and maintained. The booklet could also deal with what to do when contact cannot be established with landowners, including what the rights of the individual and/or group are, who they can contact for help, and associated information on community right to buy and other land reform issues.

The resource requirements for a booklet would be initial time in researching and drafting a simple document, time for review and approval within the Executive, desktop publishing, printing and distribution and publicity. In the longer term the document would need to be kept up to date. Overall, a simple leaflet style booklet produced in colour and disseminated to the organisations identified above could be undertaken for less than £20,000.

Measure 1.2 Webpage

This measure involves the creation of a website which presents advice on sources of information on land holdings and how these might be better accessed.

These webpages could feature similar information to that proposed for the leaflet in *Measure 1.1*, but could also include links to other relevant sites, and in time, to on-line databases such as ScotLIS and Registers Direct (see below). Creation of links from other sites (eg the Scottish Executive website, the enterprise network, local authorities, legal firms, Scottish Homes, NGOs *etc*) would also be useful, in particular the Executive's forthcoming Community Gateway Website which is currently in progress.

Measure 1.3 Programme of Community Information Provision

This suggestion involves the development of a relatively small scale programme, funded at central level, aimed at developing the capacity of locally based organisations to establish suitable and targeted information systems on land holdings in their own area. It has been suggested that community councils, local authorities or local enterprise companies might provide the appropriate focus for such a programme, and that funds could be provided to enable them to establish and record existing knowledge on local land holdings and to undertake limited research to augment these records. Information would not necessarily have to be collected in electronic format, provided it was made easily accessible as a central resource within the community (probably as a map-based paper system).

The programme might also provide for the systems to offer a number of other elements including, for example, advice on means of accessing existing information systems, who to approach for further guidance, information on property law and land reform, and for technical advice on mapping and information technology.

The measure has merit in that local or regional organisations usually already have a good understanding of land holdings and ownership, and a modestly resourced programme could help to develop the information and make it more widely available. However, the approach would require a significant level of funding, co-ordination and staff resources at central and local government level in addition to agreement and adoption of procedures for managing and implementing such a programme within the agencies responsible. For these reasons, the option appears unlikely to be practical in the format suggested and has not been considered further here. The approach proposed could, however, be taken forward by community groups or organisations on a voluntary basis.

Measure 1.4 Internet Access to Registers Direct

This measure would increase accessibility to the Registers of Scotland at limited public expense by speeding up the programme for making Registers Direct available to all internet users (8).

However, this approach will only be of benefit to a relatively limited number of new users who have the resources and expertise necessary to use the system and to search it effectively

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⁽⁸⁾ Access is currently restricted to authorised clients of the Registers of Scotland. In order to use the service, an application process has to be completed.

and users would have to subscribe to the service. In practice, internet access to Registers Direct may only benefit those who are already regular users of the Registers but who currently rely on visits to the Registers or use search companies, solicitors or in-house legal teams. It could also introduce complexities associated with interpretation of information obtained from this source by non-specialist users and issues of data protection.

Measure 1.5 Speed Up ScotLIS Pilot

A number of consultees have expressed disappointment with the delays to implementation of the ScotLIS project which is intended to provide a comprehensive 'portal' to information on land and property.

Although the system is currently being piloted by a number of organisations, it is nevertheless some way from completion. In addition, the information on land ownership and land holdings in ScotLIS is provided through a web link to the Registers Direct website. This measure is therefore very similar to *Measure 1.4* above and the two might be considered together in practical terms. Therefore *Measure 1.5* has not been considered further here.

Measure 2: Accelerating the Land Registration Process

This set of measures relates to acceleration of the paper based Land Register through registration of properties which are not being transacted, either by compulsory means, or by incentive based measures or other voluntary means.

The measures have differing resource requirements depending upon the speed of completion and the level of regulatory and/or administrative effort required to introduce them, and in terms of the additional work generated for the Registers of Scotland to research each property, prepare and register land certificates. There would also be questions of digitisation of the speeded up system with Registers Direct and of opening up access to Registers Direct (see Measure 1.4).

Measure 2.1 Compulsory Registration

Compulsory registration of titles would almost certainly require new legislation to make the system enforceable. This will involve devoting significant Executive and Parliamentary resources to preparation and adoption of legislation as well as establishing new resources, systems and procedures in Registers of Scotland to deal with the registration process. The Registers of Scotland has estimated the cost of registration of all holdings above 400 hectares to be between £5-£15 million and for all holdings above 50 hectares to be at least £80 million. In addition, individual property owners would incur legal expenses in clarifying titles and boundaries and possibly resourcing uncertainties and disputes with neighbours.

The registration process would need to be staged, and different approaches might be adopted to this. For example registration could be undertaken geographically, working across different areas of the country, or it could be based on a top-down process of starting with largest known land holdings and working down through rural holdings to a defined threshold area (if one was set). Alternatively, registration could be extended from those properties where a transaction actually takes place to those holdings for which enquiries have been

made by users of the Registers and for which the property has yet to be registered but no transaction has occurred.

The Registers of Scotland have indicated that even with compulsory registration of land and property, the Land Register would not be substantially complete until 2020. Therefore the scale of resources required to effect compulsory registration needs to be considered in relation to bringing forward completion of the Land Register and the benefits this might bring. In addition to the regulatory implications of introducing compulsory registration, the Registers have indicated that it may not be possible, at least in the short to medium term, to recruit sufficient additional staff to undertake the process of researching land holdings and registering titles.

Measure 2.2 Incentive-Based Registration

The first alternative to compulsory registration is to introduce some form of system which encourages registration of land holdings through the use of incentives. A number of measures have been suggested which could be used individually or in combination, depending upon the resources available to implement and administer them, and the degree to which registration is considered important.

Incentives which have been suggested include the use of tax breaks for those voluntarily registering holdings and more controversially perhaps, requiring registration of land as a condition of eligibility for grants covering forestry, agriculture and conservation.

It is also possible that some incentive schemes would require changes in existing legislation. For example, in *Identifying the Solutions* the LRPG noted that primary legislation would be needed to amend the *Land Registration (Scotland) Act 1979* along with secondary legislation to provide for the incentives.

This option would be considerably less resource intensive than *Measure 2.1* but does imply significant funding for preparation and adoption of regulations, changes to the administration of grant systems and of course additional workload at the Registers of Scotland. This option, and that for voluntary registration below, is unlikely to result in a significant enhancement of the comprehensiveness of the Land Register in the shorter term but this of course will depend on the scale of the incentives offered.

Measure 2.3 Voluntary Registration

A final option for registration is to introduce greater opportunities for voluntary registration of land holdings. This might be brought about through introducing a section in tax and/or census returns to allow registration to be undertaken simply and using public funding to make the cost of registration less than it otherwise would be for the individual concerned.

This measure would be relatively cheap to implement and is not expected to generate a significant additional workload for the Registers of Scotland. Conversely, it is likely to be of limited effect in terms of speeding up the rate of completion of the Land Register and does not represent an effective stand alone measure. It has therefore not been assessed further in this report.

Measure 3: Developing New Systems

Measure 3.1 Pooling Existing Databases

This measure essentially involves significant adaptation of existing sources of information other than the Registers of Scotland, together with investment in new technology in order to provide a framework in which existing information could be pooled. Since many existing information sources (and data held by other organisations such as public agencies) are held in various formats and on different computer databases, harnessing of these disparate systems would require an IT solution, possibly through conversion of data into a common format which could then be entered onto a new database and Geographic Information System (GIS).

To achieve a reasonable degree of coverage, information which to date has been subject to confidentiality restrictions would also need to be made available. Even if this barrier could be overcome, the resulting system would not be comprehensive since information from each contributing source has been derived for a range of different purposes (*eg* IACS relates to areas under agricultural production rather than individual farm holdings). Maintenance of such a system would also be complex.

Assuming that the technical and administrative difficulties involved in establishing a coordinated information source could be overcome, collation of information from existing databases/systems would offer some benefits (compared to developing a new system) in terms of reduced research effort. However there are significant practical difficulties in establishing and maintaining such a system, and the usefulness of the resulting information would very much depend upon which existing data systems could be accessed. This appears to be a high risk measure and has not been considered further in this report.

Measure 3.2 Developing the Highland Council Database for all of Scotland

This system could be developed by combining information which already exists on significant landholdings in rural areas and therefore could be specified along the lines of the model produced by the Highland Council. Such data would have to be relatively easily accessible, and are likely to be substantially comprised of information from the major public landowners in Scotland and from searches of the Register of Sasines. It is possible that the system could be further improved by adding other information on land ownership, including data which could be procured from systems such as IACS, should the rules on confidentiality be altered.

Start-up resources would be required to purchase relevant hardware and software, mapping, and to pay for licences. A suitable computer system could comprise a standard (and widely available) GIS software package such as ArcView or MapInfo. Resources would also be required to pay for personnel costs including

- experienced researchers to search the Registers of Scotland for land holdings boundaries and associated information; and
- computer operators who could digitise the land holding boundaries onto the GIS and to enter any other relevant information into a supporting database system (eg Microsoft Access).

The minimum area threshold chosen for such a system would significantly influence the resources required since a commitment to map and define progressively smaller plots of land will significantly increase the number of holdings which have to be researched and entered into the system.

To enhance accessibility, it is likely that the system would need to be made available through the internet, or possibly through reproduction of the database onto discs suitable for use on CD-ROM in computers located in libraries, local authorities *etc*. Maintenance costs would also be substantial since the turnover of land due to sales across the whole of rural Scotland will have to be tracked and information updates obtained from the Registers of Scotland and subsequently entered into the database.

The resultant system would therefore be likely to focus on major rural land owners and holdings and clearly would have significant gaps in coverage, although it would at least represent an initial attempt to present coherent, publicly available maps on the major land owners in Scotland. In this respect, it would help to addresses wider calls for transparency on land ownership information, depending upon its accessibility and restrictions on its use and use of data obtained from it.

As with all of the measures, the utility gained from such a system would be highly dependent upon its effective publicity and dissemination and in this respect access via the internet may reach a wider audience than installation only on computers in community facilities.

A new database to this specification is clearly a major undertaking in terms of resources, although it would certainly address most of the needs of the organisations identified in the study who consider that a new form of information system is required. In the longer term Registers Direct could provide this solution provided it is made generally available (via the internet or world wide web).

6.3 ILLUSTRATIVE OPTIONS

In this section, three different options have been proposed as an illustration of the types of approach which might be adopted and as a means of comparing their respective resource requirements, likely effectiveness and ease of implementation. Each option includes one or more element of the longer list of suggested measures presented in *Section 6.2*, which are:

- improving awareness of, and access to, existing information;
- accelerating the land registration process;
- developing new information.

The options have also been selected based on the typical requirements of each of the different user groups identified the research findings (presented in *Chapter 5*) and how those users might best benefit from new measures.

The following options have been proposed:

- Option A: Education and Awareness Raising. This is the simplest and least resource intensive option which could comprise Measures 1.1 and 1.2. It has been assumed to be a common element in each of the three options presented, but on its own it specifically addresses the information requirements identified for Group 3 (Community Organisations).
- Option B: Accelerated Registration of the Land Register, which essentially comprises either Measure 2.1 or Measure 2.2 with Option A. This strategy specifically addresses the information requirements identified for Group 1 (Professional Organisations) and Group 2 (Developers, Utilities and Agencies) but at differing rates of achievement depending on whether compulsory or voluntary registration is included.
- Option C: All-Scotland Database, as defined in Measure 3.2 which involves a new system combining existing information with additional research from the Registers provided in a computerised format. This option does not specifically address the needs of any one identified group, although it may be of use to Groups 2, 3 and 4 (Developers & Utilities, Community Organisations and Researchers). The option has been included as a comparator since a number of organisations have indicated it to be the preferred approach to providing better information on land holdings.

Clearly other combinations of measures could be developed, however the options presented above are intended to address specific information needs identified in the study and to illustrate a reasonable range of alternatives for comparative purposes. The comparison of these strategies against a range of criteria is presented in *Table 6.1*.

6.4 DISCUSSION OF OPTIONS

The comparison of options indicates a considerable diversity in the resource requirements, range of organisations involved and lead time for development of each alternative. The first option on Education and Awareness Raising is by far the fastest and most straightforward alternative to implement. Its targeted audience are a potentially diverse group of community groups, NGOs and individuals although they are typically relatively infrequent users of information. They are, however, among those groups who expressed the greatest dissatisfaction with current systems, and they represent a potentially diverse sample. The option provides advice on obtaining information rather than a direct source of information on land holdings. The relatively small resource implications of this option also suggest that its benefits may be high compared with its cost.

Options B and C have much greater financial and institutional implications and would also require significant political support. Although acceleration of the Land Register (Option B) has been discussed a great deal before and during the study, the costs of registering all rural land onto the Land Register is significant and it would be a considerable period of time before the benefits would be felt by the numerous and both regular and irregular users. There are resourcing constraints, in particular a lack of suitably trained research staff available to the Registers of Scotland, which would prevent very rapid acceleration of the process. If a mandatory system were to be introduced, significant political commitment would be required

to introduce the compulsory registration process together with a requirement to develop legislation and regulation of the process. This in turn adds to the cost and legal and administrative complexity of the option.

Option C, a Scotland-wide database, would be a cheaper and quicker option than formal registration but clearly not a substitute for a comprehensive Land Register, and the number of regular users who would directly benefit from its introduction is difficult to determine. Some organisations favour this as an interim solution in advance of completion of the Land Register. However, the utility which would be gained by the collective users of a new database is difficult to estimate as it appears that a system with insufficient detail in terms of holdings size would not be useful to the majority of respondents. This presents a risk of limited benefit to potential users despite moderately high set up and maintenance costs.

None of the options reviewed provides a quick or cheap solution to the identified needs of all the different information user groups, primarily due to the diversity of users and their requirements. Option A offers the potential for benefits and the quickest return to non-specialist and infrequent community users by improving awareness and accessibility of land ownership information.

Cost aside, acceleration of the Land Register offers the definitive, authoritative and most widely beneficial system in the longer term. Since the Land Register will eventually become a comprehensive system (whether its completion is speeded up or not), the decision appears to rest with which version of Option B (if any) would be affordable and most cost effective in terms of assisting organisations and individuals who need access to better information on rural land holdings.

An intermediate level of acceleration between the current geographically limited, transaction-based process and rapid compulsory registration would significantly increase the rate at which the Land Register was completed, but need not entail the large resource requirement (for the Scottish Executive and Registers of Scotland) associated with drafting new legislation, training staff, and researching and preparing land certificates. Such an option might involve voluntary registration by landowners and use of incentives to encourage registration. The rate at which map-based coverage would be increased would be in proportion to the resources applied up to the level of the £80 million estimated for compulsory registration.

Table 6.1 Comparison of Options

Criteria	Option A - Education and Awareness	Option B - Accelerated Land Register	Option C - New Database
Principal resource	e • Research and editing of booklet and	• Significant increase in personnel at	 Project management personnel, Sasines
implications	website	Registers of Scotland	researchers and GIS staff for digitising and
	• Printing, distribution, advertising and	 Additional legal workload and costs to 	ongoing operation
	webpage development costs	landowners	• IT development costs, hardware costs and
		• Requirement for enabling legislation,	licensing
		and resourcing of a regulator	 publicity, promotion and dissemination
			 Maintenance and updating
Main organisation	organisations Scottish Executive	Scottish Parliament	Scottish Executive
involved		Scottish Executive	Consultants
		Registers of Scotland	Registers of Scotland
		Affected Landowners	
		Solicitors	
Indicative Order	of Less than £20,000 start up	Up to £80M over 15 years (£5.5M per	Up to £80M over 15 years (£5.5M per Up to £2M set up costs at relatively coarse grain
Costs	Minimal recurring	year), depending on area threshold	level (>100 ha)
			£100,000 annual recurring
Development Time	Less than 6 months	Up to 15 years	Up to 5 years
Typical users/ us	user Community organisations, some NGOs Professional	groups,	developers, Developers, NGOs, utilities, agencies and
groups	and individuals	governments and agencies	community organisations
Level of use/ uptake	Occasional use by potentially wide range	Regular and intensive use by several	potentially wide range Regular and intensive use by several Occasional to regular use by potentially wide
	but relatively small number of groups	hundred organisations (professions, agents,	hundred organisations (professions, agents, range of groups (eg communities, NGOs, some
		utilities, developers and search companies) private companies and researchers)	private companies and researchers)
		plus infrequent users	
New legislation No	n No	Yes	No (but data protection issues)
required?			

Annex A Survey Sample

Sample Group	Consultee
Public Bodies and Utilities	Convention of Scottish Local Authorities
	Crofters Commission
	Crown Estate Office
	Forest Enterprise
	Historic Scotland
	Lands Tribunal for Scotland
	Ministry of Defence
	Scottish Environment Protection Agency
	Scottish Homes
	Scottish Land Commission
	Scottish Natural Heritage
	Scottish Council for National Parks
	Scottish Land Court
	Scottish Enterprise
	Highlands & Islands Enterprise
	Scottish Enterprise Ayrshire
	Scottish Enterprise Borders
	Scottish Enterprise Fife
	Scottish Enterprise Grampian
	Scottish Enterprise Tayside
	Argyll & the Islands Enterprise
	Inverness & Nairn Enterprise
	Moray Badenoch & Strathspey Enterprise
	Ross & Cromarty Enterprise
	Skye & Lochalsh Enterprise
	East of Scotland Water
	North of Scotland Water
	West of Scotland Water
	Scottish Nuclear Limited
	Scottish Power
	Scottish & Southern Energy plc Scottish Gas
	Transco Scotland
Local Authorities	Aberdeenshire Council
Local Authorities	Angus Council
	Argyll & Bute Council
	East Ayrshire Council
	Fife Council
	Highland Council
	North Ayrshire Council
	Perth & Kinross Council
	Scottish Borders Council
	Shetland Islands Council
	South Lanarkshire Council
	Western Isles Council
Community Councils	Comhairle Nam Eilean Siar
Community Councils	Aberlemno Community Council
	Aulthea Community Council
	Braemar Community Council
	Coigach Community Council
	East Kintyre Community Council
	Elie & Earlsferry Community Council
	Flotta(Orkney Islands) Community Council
	Lamlash Community Council
	Mallaig Community Council
	Montrose Community Council

Sample Group	Consultee
	North Harris Community Council
	Raasay Community Council
	Sandbank Community Council
	St. Fillins Community Council
	Scourie Community Council
	Shieldaig Community Council
	Stratherrick & Foyers Community Council
	Tillicoultry Community Council
	Tranent & Elphinstone Community Council
	West Ardnamurchan Community Council
Rural Partnerships and Community Groups	Loch Ewe Action Forum
	Argyll & But Rural Partnership
	Birse Community Trust
	Caithness Initiative
	East Lothian Rural Partnership
	Formartine & Foveran Partnerships
	Harris Development Ltd
	Highland Perthshire Communities Partnership
	Inverness & Nairn Partnership
	Irvine Valley Local Regeneration Partnership
	Isle of Jura Development Trust
	Laggan Community Partnership
	Loch Ewe Action Forum
	Lochaber Economic Forum
	Marr Area Rural Partnership
	Dumfries & Galloway Rural Partnership
	Perth/Kinross Rural Partnership
	Scottish Borders Rural Partnership
	South Lanarkshire Local Rural Partnership
	Sutherland Partnership
	UIST 200
	Dunain Community Woodland
	Mull & Iona Community Trust
	Port of Ness Harbour Association
	Voluntary Action Lochaber
	Fernaig Community Trust
	Highland Small Communities Housing Trust
	The Laggan Forest Trust Forestry Company Ltd
	Nethy Bridge Interpretation Project
	Kinlochleven Land Development Trust Loch Shiel Jetties Trust
	The Stornoway Trust
	Newtonmore Community Woodland Trust
	Alness Community Association Ltd
	Assynt Crofters Trust
	Duneland Liaison Committee
	The Isle of Eigg Heritage Trust
	Reforesting Scotland
	Bhaltos Community Trust
	North Sutherland Community Forest Initiative
	Cree Valley Community Woodlands
Agents, Surveyors and Solicitors	Bell Ingram
<u> </u>	Bidwells
	Brodies WS
	Finlayson Hughes
	Knight Frank
	9
	DM Mackinnon WS
	Mackinnon WS Maclay Murray & Spens Royal Institute of Chartered Surveyors

Sample Group	Consultee
	The Royal Town Planning Institute (Scotland)
	Smiths Gore
	Tods Murray WS
	The Law Society of Scotland
Landowners and Private Organisations	Assynt Estate
	Atholl Estates
	Buccleuch Estates Ltd
	Dinnet Estate Office
	Fala Estate Trust
	Roseberry Estates
	Roxburghe Estates
	Mr D.A. Smythe
	Not-For-Profit Landowners Project Group
	Tilhill Economic Forestry
	Timber Growers Association Ltd
	The Wemyss & March Estates Management Co
	Beazer Strategic Land
	Bryant Homes Scotland
	Cala Homes (Scotland) Ltd
	Cala Group Ltd
	Eildon Housing Association Ltd
	Manor Kingdom
	Muir Homes
NGOs	Association for the Protection of Rural Scotland
	Cairngorm Partnership
	Central Scotland Countryside Trust
	Friends of the Earth (Scotland) Highland
	Members Group
	John Muir Trust
	National Trust for Scotland
	RSPB Scotland
	Scottish Council for Development & Industry
	Scottish Council for Voluntary Organisations
	Scottish Landowners Federation
	Scottish Wildlife and Countryside Link
	Scottish Woodlands
	The Woodland Trust Scotland
	The Ramblers Association
	Sustrans
	The Mountaineering Council of Scotland
	The Scottish Rights of Way and Access Society
	Forest Enterprise
Other Organisations and Individuals	Macaulay Land Use Research Institute
omer Organisations and murviduals	Church of Scotland General Trustees
	Bishop's Conference of Scotland
	Free Church of Scotland
	National Farmers Union for Scotland
	University of Aberdeen
	University of Glasgow
	University of Dundee
	Scottish Conservative & Unionist Party
	Scottish Labour Party
	Scottish Liberal Democrats
	Scottish National Party
	Scottish Socialist Party
	Scottish Green Party

Annex B

Survey Questionnaire

Questionnaire on the Demand for Information on Land Holdings in Rural Scotland



During investigations by the Land Reform Policy Group, the issue of information on rural land holdings attracted significant discussion and it was subsequently recommended that a new database on land ownership in rural areas be created to ensure greater transparency on ownership and make it easier for the public to find out who owns particular areas of land. The Scottish Executive has appointed Environmental Resources Management (ERM) to further investigate the issues surrounding land ownership, and in particular to ascertain the uses likely to be made of information on rural land holdings and how such information can best be provided. The purpose of this questionnaire is to obtain information about these issues.

Please could you complete the questionnaire and return it to ERM as soon as possible in the reply paid envelope provided.

Section A - Your Details Please could you indicate your name, contact details and, if appropriate, the organisation you represent in completing this questionnaire. Name Organisation **Address** Telephone Fax **Email** Section B - Information Currently Available About Land This section of the questionnaire relates to information which is already available on rural land ownership, and your experience in making use of such information. 1 Do you/your organisation need information on land ownership? **YES** \(\bigsigma\) / **NO** \(\bigsigma\) (please tick as appropriate) If YES please comment

2	Have you/your organisation ever requested or searched for information on land ownership from the Registers of Scotland (ie the Register of Sasines or the Land Register of Scotland)?
	YES \(\sigma/\) NO \(\sigma\) (please tick as appropriate)
If	YES please complete the rest of Question 2, If NO please move on to Question 3,
a)	How regularly have you used this service (e.g. How many times over a particular time period)?
b)	Has it provided the information you required?
	YES \(\subseteq / \text{NO} \subseteq \) / SOMETIMES \(\subseteq \) (please tick as appropriate) Please comment
c)	What was the typical cost of the service? (If you are a frequent user, please give an average figure)
d)	Do you consider this cost to be reasonable?
e)	Have you encountered any particular problems or difficulties in using the Registers?
3	A range of other information sources on land ownership also exist in the public domain. Looking at the list of possible sources of information below please indicate

• You know of this source (Column A)

whether:

- You have used this source (Column B)
- You have found it easy to use (Column C)
- You obtained the information you were seeking (Column D)

Information Source	Α	В	С	D
Highland Council Database				
Local Authorities				
Public Agencies (If YES please state source)				
Valuation Rolls				
ScotLIS (a pilot information system on land and property)				
Registers Direct (an on-line service provided to subscribers by the Registers of Scotland)				
Other (please state)				
YES \(\sigma/\) NO \(\sigma/\) PARTIALLY \(\sigma\) (please tick as appropriate) Please comment				
5 Please add any additional common holdings.	ents on existii	ng information	ı sources abou	t rural land
Section C - Using Information on Land Ownership				
We are interested in establishing the purpose	es for which infor	rmation on land or	wnership is curre	ntly being used.

6 Please list the uses you/your organisation makes of information about land ownership, and how regularly you use this information. Please answer in the box below.

Type of Information	Uses of Information	Frequency of Use
you may be typically involved wit	I the typical size of the land plots which y th negotiations relating to small plots of l larger areas such as estates, or you may b	and for community purposes, or your
	the size of individual land plots a ownership information. Please tic t if you wish.	
Size of Plot (ha)	Used? (please tick)	Comments
Less than 5 ha		
5-10 ha		
10-50 ha		
50-100 ha		
More than 100 ha		
All Sizes		
Section D - Improving In	of ormation about Land Owne	•
estate, contact points, boundary i		i uooni unu ownersnip (e.g. size oj
estate, contact points, boundary in	on satisfied with existing sources	

9	If NO, what aspect of information needs to be improved?
10	What do you suggest as the most suitable means of improving
a)	the quality of information?
b)	accessibility of information?
11	Do you/your organisation want better information on land ownership?
	YES \(\superscript{\sumscript{\subscript{NO}}\superscript{\subscript{\subscript{lease tick as appropriate}}}\) Please comment
12	Would you/your organisation be willing to pay to use better information?
	YES \(\sigma/\) NO \(\sigma\) (please tick as appropriate)
	If YES how much would you be prepared to pay?
12	Do you known our amination consider that a) a many information exists an is necessary on h)
13	Do you/your organisation consider that a) a new information system is necessary or b) there are alternatives to a new database which could be pursued?
	Please comment
a)	
b)	

Section E - Land Reform Proposals on Information about Land

Following the work of the Land Reform Policy Group, the Scottish Executive recommended the creation of a new database on land ownership in rural areas to ensure greater transparency on land ownership and make it easier for the public to find out who owns particular areas of land. **Please complete this section of the questionnaire only if you perceive the need for such a database.** Otherwise please continue to Section F.

14	Why do you/your organisation consider that a new database would be useful? Please comment			
15		ning that the information c	l that a new database would be 'non ontained would not be legally defin	
	YES \(\sqrt{NO} \sqrt{\sqrt{NO}} \) (1) If YES please com	please tick as appropriate) ment		
16	Would a source of	f information which is non-	definitive be useful at all?	
17	Would a source or or 100 ha) be help		overed plots above a certain size (eg	20 ha
18			organisation believe should be a) nt and maintenance of such a system	n?
		Development	Maintenance	
R	Responsible for			
P	Pay for			

19	Should a new source of information on land holdings be set up?
	YES ☐/NO ☐ (please tick as appropriate)
	If YES how should the information for inclusion in such a source be obtained? Please comment
20	Should the existing Land Register be completed more quickly?
	YES \(\sigma\)/NO \(\sigma\) (please tick as appropriate)
	If YES could landowners be persuaded to register their holdings if they are not planning to buy or sell? Please comment
21	Do you have any other comments to make about a land holdings database?
nee tec	new database on land information was to be developed, there are a range of technical issues which would red to be considered. If you/your organisation wish to comment on these issues then please complete the hnical questions on the yellow sheet at the end of the questionnaire, as well as the following section, Section F. you do not wish to comment on technical issues, then please continue to Section F of the main questionnaire.
Sed	ction F - Beneficial Ownership
	e study on land holdings has also been tasked with addressing the issue of beneficial ownership of rural land, d information about beneficial owners
22	What do you understand to be meant by the term beneficial owners?

23	Do you/your organisation have views or interests on Beneficial Ownership?
	YES \(\sigma\)/NO \(\sigma\) (please tick as appropriate)
	Yes please complete the remaining questions of Section F. If No please continue to the end of the estionnaire.
24	Have you tried to obtain information about the beneficial owners of land in rural Scotland?
	YES \(\sigma\)/NO \(\sigma\) (please tick as appropriate)
	If YES, did you encounter any difficulties in doing so?
25	Do you consider there is a need for better information about the beneficiaries of land?
	YES \(\sum / \text{NO} \subseteq \text{(please tick as appropriate)} \) Please comment
a)	If YES why is it important to you that information on beneficial ownership be publicly available? (i.e. How would you use the information?)
26	Do you consider there is a need for easier access to information about beneficial
	ownership?
	YES \(\subseteq / \text{NO} \subseteq \) (please tick as appropriate) Please comment

a)	If YES why is it important to you that information on beneficial ownership be easily accessible? (i.e. How would you use the information?)	
27	Do you agree that under certain circumstances the Scottish Ministers should be given powers to investigate beneficial ownership of land? YES \(\subseteq / \text{NO} \subseteq \) (please tick as appropriate) Please comment	
28	28 Under what circumstances might such powers be used?	
29	What other suggestions would you make regarding beneficial ownership?	

END OF QUESTIONNAIRE Thank you for your participation

If any of your responses are confidential, please indicate, and they will be treated accordingly. Confidential responses will not be disclosed to the Scottish Executive and issues raised will be summarised in a non-attributable manner.				
If you have not been able to complete the form or you have any queries, please contact Henry Collin on 0131 478 6000 (email hc@ermuk.com).				
If you have any further comments or information which you consider relevant to the study, we would be interested in your comments.				
Later in the study we may need to contact you to discuss your responses or to hold more detailed discussions. Please tick the box below if you would prefer not to be contacted.				
I do not wish to participate further in the study				

Questionnaire on the Demand for Information on Land Holdings in Rural Scotland



Optional Sheet

Technical Aspects of the database				
-	If such a database was to be developed, there are a range of issues which would need to be considered. Please provide your/ your organisation's view on the following:			
a) Format: what type of hardware and software would be appropriate?				
b)	Spatial coverage: what should be the minimum area threshold (in hectares) for land holdings included in the system?			
c)	What mapping scale should be adopted?			
d)	How should the system be accessed by users?			
e)	Would any issues of confidentiality arise?			
	YES \(\sum_/\) NO \(\sum_\) (please tick as appropriate) If YES please provide details			

f)	f) How would these issues be addressed?	
g)	Should the system include information other than land ownership?	
	YES \(\sum / \text{NO} \subseteq \text{ (please tick as appropriate)} \) If YES please specify	
h)	What is your estimate of the set-up costs of a system according to the specification you have described in response above?	
i)	Should users of a database system be charged to retrieve information?	
	YES \(\subseteq / \text{NO} \subseteq \) (please tick as appropriate) If YES, I) how should charges be set	
	II) approximately how much would be reasonable?	
j)	Please list below any examples of land ownership information systems (either in Scotland or elsewhere) which might provide a useful model for a possible database in this country?	

Annex C

Analysis of Questionnaire Results

C1 ANALYSIS OF QUESTIONNAIRE SURVEY RESULTS

C1.1 Introduction

This annex presents a summary of the findings of the questionnaire survey on land holdings, based on the information provided in the questionnaire returns received. The majority of information obtained from the questionnaire survey is of a qualitative nature and this is reflected in the analysis, although quantitative summaries of feedback have been presented in tables wherever possible.

Where quantification of responses has been reported, this has usually been expressed both in terms of the number of respondents and percentage of respondents answering a particular question, rather than as a percentage of the total number of respondents. The effect of this has been to over-state the percentages concerned since for many questions in the survey only a proportion of respondents provided a response. Nevertheless, to place some of the responses in context in terms of the overall sample, the level of response is also presented as a percentage of the sample.

C1.2 COMPOSITION AND LEVEL OF RESPONSE

A total of 73 questionnaires were returned to ERM. Not all respondents fully completed each questionnaire, and in presenting this analysis, the number of answered questions is detailed in each case. In addition to the questionnaire returns, ERM also received 8 letter responses from respondents who had received the questionnaire and wished to comment, but did not consider themselves able to complete the questionnaire. Comments made in these letter responses have referred to where relevant, although quantitative analysis of responses has been based only on returned questionnaires.

The total of 73 responses constitutes a response rate of 44% (in total 167 questionnaires were circulated). The composition of the responses received is summarised in *Table C1.1*. The table has been divided into those organisations considered to be users of information about land and those representative of such users. Where appropriate, in the analysis of responses in this section, we have made reference to any clear differences in the nature of responses between these two groups.

Table C1.1 Responses Received

Type of Respondent Group	Name of Respondent Organisation			
Users of Information on Land				
Public Bodies and Utilities	Crofters Commission			
	East of Scotland Water			
	Historic Scotland			
	Inverness and Nairn Enterprise			
	North of Scotland Water Authority			
	Ross & Cromarty Enterprise			
	Scottish & Southern Energy plc			
	Scottish Enterprise			
	Scottish Enterprise Ayrshire			
	Scottish Enterprise Borders			
	Scottish Enterprise Edinburgh & Lothians			
	Scottish Enterprise Lanarkshire			
	Scottish Enterprise Renfrewshire			
	Scottish Enterprise Tayside			
	Scottish Homes			
	(Scottish Enterprise Grampian*)			
Local Authorities	Highland Council			
	East Lothian Council			
	Comhairle Nan Eilean Siar			
	Scottish Borders Council			
	(Angus Council*)			
Community Councils	Montrose Community Council			
	Fernaig Community Council			
	Flotta Community Council			
	Elie & Earlsferry Community Council (2 responses)			
	Sheildaig Community Council			
	Mallaig Community Council			
	West Ardnamurchan Community Council			
	Tillicoultry Community Council			
	Minginish Community Council			
	Royal Burgh of Sanquhar Community Council			
	Scone and District Community Council			
	Newcastleton Community Council			
	Sandbank Community Council			
	Kilmaronock Community Council			
	(Coigach Community Council*)			
Rural Partnerships and Community	Alness Community Association Ltd			
Groups	Newtonmore Community Woodland Trust			
Groups	Highlands Small Communities Housing Trust			
	Voluntary Action Lochaber			
	Loch Ewe Action Forum Ltd			
	Formartine Partnership			
	The Cairngorms Partnership			
	Birse Community Trust			
	Shetlands Islands Partnership			
	North Sutherland Community Forest Trust			
	Loch Shiel Jetties Trust			
	Morvern Community Development Company			
	(Stornoway Trust*)			
	(Rural Stirling Economic Partnership*)			
	(Katal Stilling Economic Latticistip)			

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	continued
Agents, Surveyors and Solicitors	McLean & Stewart
	D M MacKinnon WS
	Knight Frank
	Faculty of Solicitors in the Highlands
	Smiths Gore
Landowners and Private Organisations	Atholl Estates
	Methven Estate
	Fala Estate Trust
	Lattice Property Holdings Ltd
	Cala Homes
	Scottish Woodlands Ltd
	Port of Ness Harbour Authority
	Tilhill Forestry
Non Government Organisations	National Trust for Scotland
_	Scottish Rights of Way and Access Society
	Scottish Council for Voluntary Organisations
	Eildon Housing Association
	RSPB Scotland
	Central Scotland Countryside Trust
Other Organisations and Individuals	The Church of Scotland General Trustees
	Signet Library
	(Fergus Ewing MSP*)
	(Committee on Church and Nation*)
Representatives of Users of Information	
Representatives of Users	Scottish Landowners Federation
-	Lands Tribunal for Scotland
	Law Society of Scotland
	Lochaber Forum
	RICS in Scotland
	(Royal Town Planning Institute in Scotland*)
* Response received as a letter rather than	n a questionnaire

Name of Respondent Organisation

The number of responding organisations in each group presented in *Table C1.1* as a percentage of those included in the sample has also been assessed. The proportion of returned questionnaires in each group is as follows:

- Public bodies and utilities: 47%
- Local authorities: 31%

Type of Respondent Group

- Community Councils: 70%
- Rural partnerships and community groups: 32%
- Agents and surveyors: 50%
- Landowners and private organisations: 44%
- Non government organisations: 37%
- Other organisations and individuals: 14%
- Representatives of users: 63%

The above list shows that, in comparison with the overall response rate, the only significantly under-represented group is the category of 'other organisations and individuals'. Since this group is generally comprised of organisations who do not make extensive use of information on land

holdings, the limited response rate is not considered to significantly bias the overall findings of survey.

C1.3 INFORMATION CURRENTLY AVAILABLE ABOUT LAND

The initial section of the questionnaire sought a response on whether organisations required information on land ownership and whether they have ever made use of the Registers of Scotland (*ie* the Land Register or the Register of Sasines ⁽¹⁾) to obtain this information. The responses which could be quantified on the need for information on land holdings and the use made of the Registers of Scotland are shown in *Table C1.2*.

 Table C1.2
 Need for Information (Number of Responses)

Question	Number Responding	Yes	No	Sometimes
• Does the organisation need information on land ownership?	72	57 (86%)	15 (14%)	n/a
• Ever requested or searched for information from the Registers?	70	39 (56%)	31 (44%)	n/a
• Has the Registers provided the required information?	34	15 (44%)	1 (3%)	18 (53%)

The majority of the sample (86%) therefore stated that they needed information on land ownership, with those that did not need information including two estates, six community councils, three community groups/partnerships, two local enterprise companies, one professional institute and one private company.

More than half of the organisations responding to the question on use of the Registers of Scotland noted that they had used the Registers of Scotland at some time. This is the equivalent of nearly three quarters of those who said they were users of information on land. Twenty three of the thirty one organisations who had never requested information from the Registers were community councils, rural partnerships or community groups. The others (non-users) included five enterprise companies, a professional institution, a private company, and, anomalously, a major land agency.

Those organisations using the Registers do so with variable regularity. The quantified responses regarding usage ranged from once every two years to daily. The most frequent users were water authorities and housing organisations, an estate company, a solicitors and an organisation providing a specific Registry search service, whilst the most infrequent users were NGOs. One organisation, a fairly regular user of the Registers, did so through a search company.

Over forty percent of those organisations using the Registers had obtained the information they required, with another 53% having mixed success. However, only one of the respondents indicated that the Registers had never

⁽¹⁾ The Registers of Scotland are introduced and discussed in Section 3 of the main text of this report.

provided the information they required (and this was principally because the Land Register does not cover all of the country). The organisations obtaining the information they sought from the Registers tended to be either national bodies, governmental organisations (including two local authorities), as well as solicitors, two estate companies and a utility.

Several comments were made on the information available from the Registers, with the most frequent observations being that the Sasines is not map based, the Land Register is incomplete, searches do not always yield all of the required information and can be complicated. The lack of accuracy of boundary information was also raised by two respondents. Nevertheless the responses in the table above show that all but one of the organisations who had sought information from the Registers had obtained at least some of the information they required.

Similarly the information on the costs of use was variable with responses appearing to relate to one of three categories: annual costs; costs per title search and costs per visit or group of searches. Breaking the quantified responses down into these categories yields some approximate information on typical costs as shown in *Table C1.3*.

Table CC1.3 Costs of Use of Registers

		Range of Costs Stated	Approximate Average	Number of Quantified Responses
•	Annual costs	Several hundred to £3000	n/a	2
•	Costs per title search	£2 to £50	£25	9
•	Costs per visit or group of searches	£20 to £500	£150	7

Costs will clearly vary according to the extent of searches requested, however typical costs per title search appear to be in the range of £2 to £50 whilst the cost of more substantial groups of searches appears to be an order of magnitude greater. Extensive users such as the Highland Council spend up to £3000 per annum to update their own database. Of the nineteen organisations who provided a figure on the costs of use, only three (or 16%) considered that the cost was not reasonable. Eleven organisations commented on difficulties using the Registers, with the main complaints relating to the lack of map based information, a need for better accessibility to information and the accuracy of information available. Interestingly, comments from two users of the web based system (presumably Registers Direct), commented that at times downloading data can be a slow process.

Respondents were also asked to comment on other sources of public information on land ownership (in Question 3). The responses obtained are summarised in *Table C1.4*, based on the answers provided in the table in the questionnaire. Overall 64 respondents listed at least one source of which they were aware.

 Table CC1.4
 Other Public Information on Land Ownership (Number of Responses)

Information Source	Aware of Source	Have Used Source	Found Source Easy to Use	Obtained Information Sought
Highland Council Database	29	8	4	4
Local Authorities	47	22	14	13
Public Agencies	20	10	8	8
Valuation Rolls	45	24	14	16
ScotLIS	12	1	-	-
Registers Direct	28	11	6	5
Others:				
 local knowledge 	4	4	3	2
 own records/database 	2	2	2	2
 solicitors 	1	1	1	1
 estate agents 	1	1	1	1
 Wightman book 	1	1	1	1
 Crofters Commission 	1			
database				
 Search companies 	1	1	1	1
 Scottish Land Court 	1	1	-	-
 local Post Office 	1	1	-	-
 Non-specified 	1	1	2	1

Although 57 questionnaire responses included at least one information source, most respondents listed more than one information source for each of the four categories in the table.

The responses indicate that in practice local authorities, valuation rolls, Registers Direct and the Highland Council are the most well known sources of information. Valuation Rolls and Local Authorities have been significantly drawn on for information on land holdings and users of these sources appear to have been most successful in obtaining the information required. Although many respondents were aware of sources such as the Highland database and ScotLIS, less than a third had tried to use these sources. Although fewer than half of those aware of Registers Direct had used this on-line service, this is unsurprising since the system is currently only available on a trial basis to a limited number of organisations. Although twelve respondents were aware of ScotLIS, only one had used the system which remains under development, and the land ownership information for which is provided through a link to Registers Direct.

Overall, for each of the main information sources listed, the level of use of the sources by respondents is much less than the level of awareness, suggesting fairly limited practical experience in obtaining information about land by the organisations responding. Alternatively, these organisations may have sufficient knowledge of these sources to determine that they would not provide the information being sought. This is an issue which is discussed further in *Section 4* of this report.

Only nine of the 73 respondents were not aware of any of the information sources listed in the questionnaire. A further 19 respondents did list information sources of which they were aware but had not used any of the

sources listed. In total, 23 out of 73 respondents (or 32%) have not used any of the information sources which they listed as being aware of. However, 8 of these organisations had previously indicated that they had made use of the Registers. Overall therefore, 20 organisations (or 27% of those responding) had used neither the Registers nor any other information source. These included nine community councils, seven other community groups (eg partnerships and other groups) and two local enterprise companies. A total of eight respondents (nine local community organisations and one land agent) stated that they needed information on land holdings but they had neither requested information from the Registers nor from any other potential sources.

Information was then obtained on the general suitability of the information systems currently available for respondents' needs. Interestingly, 27 out of a total of 59 respondents to this question (46%) considered that the present information systems were suitable for their information needs, while 23 (39%) thought that the present systems were partially suitable. Nine respondents (15%) considered present systems to be unsuitable, although only two of these respondents had indicated in the previous question that they had used any of the existing systems/sources and five of these had not tried to use the Registers in the past. Those respondents indicating present systems to be suitable ranged across the organisation types represented in the sample (including four LECs, three local authorities, eight community organisations, two utilities and two estates) with no particular group predominating. A number of comments were also made relating to the incompleteness of information which could be obtained from present sources, and several comments favoured an on-line information system and the importance of a single, central and accessible system was mentioned.

C1.4 USING INFORMATION ON LAND OWNERSHIP

The most regular use of information on land relates to ownership details. This was listed by 40 of the 52 respondents in response to the type of information they used. Other notable information types listed included boundary information (7 responses), information on rights, titles and uses over the land (8 responses) as well as information on designations and woodlands.

Responses in some cases appear to have confused "types of information" with "uses of information". However, a series of uses of information on land were identified and these are listed in *Table C1.5* in a summarised form.

Table CC1.5 Using Information on Land Ownership

Type of Information	Typical Uses	Typical Frequency of Use
Ownership and	contacting landowners	Monthly
boundary details	• defining project or development site limits	• Monthly
	 property administration 	 Infrequent
	• rights of way and access proposals	Bi monthly
	• registering community interest in land	Ongoing
	 preparing access information for outdoor sports 	• Continuous
	advise, negotiate on land management and agreements	Ongoing
	 serving notifications and documents 	Weekly/twice per week
	 applying for grants and assistance 	 As required
	 surveying and managing land, 	 Monthly/frequently/
	estates and property	As required
	 obtaining land access (eg for surveys) 	• Frequently
	 conveyancing and examining burdens 	• Frequently
	 planning matters and policy 	As required
	formulation and monitoring	• Regularly through the year
	 tribunals and disputes 	
	 business and tourism strategy development 	Not specified
	 promotion of services/sales 	 Frequently
	ownership and boundary profiles for designation of land	• Ongoing
Servitudes,	 assess project requirements 	 Monthly
Wayleaves and	 development consent procedures 	• Daily
Burdens	conveyancing, tenancy agreements	As required

The information provided, although qualitative, clearly indicates a diverse use of information on land ownership which varies according to the nature of the organisation seeking the information.

A total of 58 ⁽¹⁾ responses were obtained which provided information about the sizes of land holdings for which information is typically required. The distribution of responses according to size of plot is summarised in *Table C1.6* below.

Table CC1.6 Sizes of Land Plots

Size of Plot (hectares)	Number of respondents indicating use made of information on plots this size
Less than 5	30
5 to 10	15

⁽¹⁾ Despite the fact that previously only 57 respondents indicated they needed information. There were a number of such discrepancies in responses made.

Size of Plot (hectares)	Number of respondents indicating use made of information on plots this size
10 to 50	12
50 to 100	9
Greater than 100	11
All plot sizes	35

The responses indicate that information is required on plots of land across the range of areas, but that land holdings of small areas (eg less than 5 ha) are important to more than 50% of organisations responding, and that 60% of respondents use information on land holdings of varying size. Comments were made in the responses that generally information on larger land holdings was easier to obtain than for the (more numerous) small sized holdings, for which boundary details may be more of an issue. Development plots in rural areas typically fall within these smaller sized land holdings.

C1.5 IMPROVING INFORMATION ABOUT LAND OWNERSHIP

From a total of 68 responses, 32 organisations (47%) indicated satisfaction with the existing sources of information on land holdings. This provides a good correlation with the response discussed in *Section 1.2.2* to Question 4 about the suitability of information systems for the respondents' needs (in which 46% considered existing systems to be suitable for their needs). The 36 respondents who did not consider existing sources to be satisfactory did not fall into any particular category. Their composition is summarised in *Table C1.7*.

Table CC1.7 Groups Not Satisfied with Existing Sources of Information

Group Type	Number of Respondents
Community groups and partnerships	7
Community Councils	8
Local Enterprise Companies	4
NGOs	4
Private companies and developers	3
Solicitors and land agents	2
Government organisations/agencies	3
Utilities	1
Local Authorities	2
Private estates	1
Other organisations	1
TOTAL	36

The responses indicate broadly that the level of non-satisfaction regarding existing information on land ownership is generally higher (as a proportion of their representation in the sample) among community groups, community councils, local enterprise companies and NGOs. Interestingly, 12 of the 36 organisations who were not satisfied with existing information had never previously used the Registers and six of these organisations had used neither the Registers nor any other source of information on land holdings. Further exploration of the reasons for non satisfaction with existing systems was undertaken during consultations and is presented in *Section 4*.

A range of comments was received⁽¹⁾ on how respondents considered that information systems need to be improved, and their suggestions for improving the quality and accessibility of information available. These comments are summarised in *Table C1.8*.

Table C1.8 Improving Information on Land Holdings

Aspects Requiring Improvement	Suggestions to Improve	Suggestions to	
	Quality	Improve Accessibility	
 Nine respondents considered a GIS map based system was needed with better boundary and contact information Seven respondents considered simplicity and/or ease of access to be key requirements Accuracy (including boundaries) and currency of data were cited as issues by four respondents Three other comments received on public right to information, need for greater transparency and cheaper costs of use Two respondents felt it was difficult to know where to start in obtaining information Completeness of information and a single source was raised three times One respondent noted that ScotLIS should be completed as soon as 	 Four comments on the need for digital systems, possibly with web access were raised Four noted the need for a common centralised source of information Four respondents noted that a map based system was needed Other issues included a need for regular updates, comprehensive information, security of data, use of local knowledge, greater use of voluntary land registration and a single Scottish Executive led 'project', plus resourcing and political 	 Seventeen responses suggested a web based digital (GIS) database Three respondents also raised the issue of having a central information source Linking the system to SEGIS was raised in one response Speed and ease of access were also raised 	

With regard to improving information, one respondent noted that the major difficulty with the existing situation was having a clear understanding of what information is available and where/how it can be accessed. This is an issue which was also raised in consultations following the survey and is addressed further in *Section 4*.

Respondents were also asked to comment on the need for better information on landownership, how this need might be fulfilled and whether their organisations would be willing to pay towards better information. *Table C1.9* below summarises the split of responses to questions on the demand for better information on land ownership.

Table C1.9 Demand for Better Information (Number of Responses)

Question	Number	Yes	No	Desirable
	Responding			
Does the organisation want better	41	32 (78%)	9 (22%)	n/a
information on land ownership?				
 Would the organisation be willing 	40	23 (58%)	17 (42%)	n/a
to pay to use better information?				

⁽¹⁾ These responses were only from organisations who had indicated previously (in Question 8) that they were not satisfied with existing sources of information on land holdings.

Question	Number	Yes	No	Desirable
	Responding			
Is a new information system	18	10 (56%)	3 (17%)	5 (27%)
necessary?				

The data suggest, unsurprisingly, that the large majority of respondents (78%) completing this section of the questionnaire (ie those who previously indicated they were not satisfied with existing information) wanted better information on land holdings. The nine respondents who considered that better information was not required tended instead to consider that easier or cheaper access was the key issue, or that information should be map based and in electronic format. These are clearly issues associated with *access* to information rather than a difficulty with the quality of information currently available.

Willingness to pay for the use of better information yielded a variety of qualitative responses such as "very little (the public sector should pay)", "in certain circumstances", "if reasonable" and "negotiable". Some respondents noted that their organisations' budgets were restricted in terms of paying for information on land. Quantitative figures were expressed as costs per title search (a range of £5-£20 suggested), annual costs (£20; £1000 subscription) and even a fee in the region of £5,000 to £10,000 per annum (albeit quoted by a frequent user of the Registers).

Only a small number (18) of respondents made definitive yes/no answers to the question on whether a new information system was necessary (ten were clearly in favour and three against). A large number instead made qualitative comments, some of which did not appear to clearly state a position as to whether a new information system was regarded as necessary. For example, several respondents commented that there was a need for a central and easily accessible system, to standardise current systems and reduce duplication, and to link existing systems such as IACS, WGS etc. Other suggestions included making the best of existing data sets and compiling them as a single source, accelerating full title registration on the Registers of Scotland, providing access from libraries or the web to an on-line system, or creating web links between current information providers. Several respondents expressed concern about the cost of a system however, both in terms of establishment costs and user fees.

A potentially revealing comment made by one organisation was that their limited experience in use of existing systems made it difficult to comment on the adequacy of existing information. This appears to be an important issue and may apply to many organisations across rural Scotland who wish to make use of information on land holdings but have limited experience and expertise in accessing and using information systems presently available.

C1.6 THE NEED FOR A NEW DATABASE

A series of questions were posed to examine respondents' attitudes to the establishment of a new database. This section deals only with those

respondents completing *Section E* of the questionnaire, *ie* those who perceive the need for a new database. In response to the first question as to why a new database would be useful (Question 14), 42 respondents made comments however only 20 direct answers were given. Those comments which provided a direct response to the query are summarised below.

Why would a new database be useful?

- To improve knowledge or level of information available on land
- Provides a one stop shop for information about land, and easier to check information on ownership
- Since Registers Direct is too expensive
- To provide information about walking/access
- To have all information needed in one place
- As a quick, easy and cheap access to information (which the public can use)
- To make land searches easier
- To help third party groups undertake work (eg environmental) on land
- To support current work to make the Land Register and Sasines more available
- To improve planning and forecasting work
- To help identify opportunities for access to land and develop policy initiatives for land management
- To fill a gap the Land Register is slow to progress and too detailed for most applications
- It would provide greater transparency

The other comments made about a new database related to the need for comprehensiveness, accessibility and affordability, whilst three respondents considered that a database would not be useful.

The responses from the remainder of this section of the questionnaire which may be summarised quantitatively are presented in *Table C1.10*.

Table C1.10 Usefulness of a Database

Q	uestion	Number Responding	Yes	No	Don't Know
•	Does a non-legally definitive database have benefits?	40	19 (48%)	21 (52%)	n/a
•	Is a non-definitive source useful at all?	37	16 (43%)	10 (27%)	11 (30%)
•	Would a source of information covering plots above a certain size be useful?	37	12 (32%)	23 (62%)	2 (6%)
•	Should a new source of information on land holdings be set up?	42	29 (69%)	13 (31%)	n/a
•	Should the Land Register be completed more quickly?	43	37 (86%)	6 (14%)	n/a

The responses indicate a fairly even numerical split between those respondents who consider a non-definitive information source to be useful and those who do not. Although the 19 respondents in favour of a non-definitive database constitute 48% of the organisations responding to this

section of the questionnaire, in overall terms this translates to only 26% of the sample.

Those groups in favour of such a database again do not fall into any clear organisation types, although seven of the nineteen were community councils, partnerships or other community groups, two were utilities and two were solicitors. Comments made in support of the respondents' position on the usefulness of a non-definitive system are summarised below.

Does a non-legally definitive database have benefits?

Comments made by those indicating a system would have benefits	Comments made by those indicating a system would not have benefits
huge task to keep up to date (but important to be up to date)	may present possible legal action
 could reduce landowners concerns about being listed in Registers more beneficial if legally definitive useful starting point for further information and guiding local enquiries would still improve on the current situation cheaper and quicker to produce, less red tape authoritative system costs would be greater useful if purpose is to provide public information for general interest only beneficial if detailed (otherwise should spend resources on improving Registers) should include information on sources of recorded information (including disputed) 	 if not authoritative, may have no legitimate foundation for action complete sell out on what is needed not for planning matters but possibly for environmental uses

The comments indicate that even those in favour of the system have raised some concerns and caveats about the usefulness of a non-definitive information system. Indeed, several of the respondents who answered affirmatively to Question 15 (Is a non-legally definitive database beneficial?) were less than certain in response to the follow-up question that a non-definitive information source had any benefits at all. The key benefits which were raised regarding a new system appear to relate to its speed and relatively low cost to set-up and its use as a 'starting point' for more detailed searches and the opportunity to provide wide accessibility to the information. Several noted however that definitive information would still be required as the end-point to their search.

The responses also suggest that there is fairly limited support (12 out of 37) for a source of information which has a minimum land holding threshold area. Comments made regarding the land area threshold indicate that even amongst those who considered that a minimum land area database would be useful, a number of respondents noted that most problems and complexities with land holdings occur among plots of very small area (eg 1 hectare or less) and several raised the need to have information on all sizes of plots. Comments were also raised suggesting that boundary issues rather than land plot sizes tended to be of more concern to many organisations requiring information on land holdings. It would appear from the comments that a

database with a threshold for land holding areas above 10-20 hectares may have very little value.

Information was also obtained from respondents in favour of a new database regarding who they considered should be responsible for the establishment and ongoing maintenance of such an information system. A reasonably consistent set of responses was provided and these are summarised in *Table C1.11* below.

Table C1.11 Responsibility for Development and Maintenance (Number of Responses)

Organisation/Group	Development of the System		Maintenance of the System	
Suggested				
	Responsible	Pay For	Responsible	Pay For
Scottish Executive (or	24	24	19	17
Scottish Parliament)				
Local Authorities	5	3	7	3
Registers of Scotland	4	1	8	2
Users of System	0	1	1	12
Public Authorities	1	1	1	1
Interim Land Reform	1	0	0	0
Group				
Property purchasers	0	1	0	2
or transfer				
Land Court	0	0	1	1
Existing Providers	1	1	1	1
Private Company or	2	1	1	0
Partnership				

Based on 34 responses. Some respondents nominated more than one organisation in each category.

The responses show that Scottish Executive was nominated most often for the responsibility of developing and paying for both the development and maintenance of a new system. Users were also suggested as a group who should pay to use a new system.

In response to Question 19 (should a new source of information on land holdings be set up?), *Table C1.11* shows that 69% of respondents were in favour of a new system. However, only 12 of the 29 respondents in favour of the new system commented on how the information should be obtained. These comments were rather diverse and are listed in the text box below.

How should information for a new source be obtained?

- Through legal mechanisms (eg during property sale or transfer of ownership)
- By vesting ownership in local authorities and compensating owners over a 10-20 year period
- By combining Local Authority databases
- Consolidation of all existing records including the Registers
- Using questionnaires and negotiations with other bodies
- Through Sasines, research of existing information and communication with landowners
- By invitation and totally voluntarily
- From existing sources such as IACS and SEGIS (provided cost can be justified)
- Through mandatory registration of land

A total of 37 respondents (86%) were also in favour of speeding up the process of completing the Land Register, and a number of suggestions were made as to ways in which landowners could be persuaded to register their holdings. Several respondents considered that the registration process would need to be free of charge, or possibly encouraged by incentives, and a number of others considered that compulsory registration would be the only effective method with penalties for non-registration. It was also suggested that public funds and grants should be conditional upon registration of the recipient's land. Twenty three respondents considered that there should be a new information system as well as acceleration of the Land Register.

C1.7 BENEFICIAL OWNERSHIP

A total of 52 respondents provided a definition of what they considered beneficial ownership to mean and some of the definitions can be grouped according to the common themes expressed. The range of definitions is summarised below, with the number of respondents giving the same answer in brackets after the definitions.

Definitions of Beneficial Ownership

- The beneficiaries of land held by a trust (7)
- Those who benefit financially from the land, particularly when it is sold (8)
- The "real" owners of the land who are in some way hidden behind companies, trusts or the registered owners (3)
- Those in control of the land (2)
- Those who get use, benefit or income/profit from the land without actually owning it or holding title to it (4)
- A number of other definitions were provided including three responses which included some concept of "rights" over the land either during ownership or sale, and five definitions which in some way suggested that it relates to the conferring of benefits upon the local community.
- Twelve respondents said they did not know what the term meant

The broad range of definitions provided and the large number of respondents who did not understand or were not aware of the term suggests a considerable degree of confusion over the term.

Several questions in this section of the questionnaire required yes/no responses and the results of the responses obtained are summarised in *Table C1.12*.

Table C1.12 Comments on Beneficial Ownership

Question	Number	Yes	No
	Responding		
Does the organisation have views on or	19	19 (35%)	35 (65%)
interests in beneficial ownership?			
 Has the organisation tried to obtain 	8	8 (24%)	26 (76%)
information on beneficial owners?			

Question	Number Responding	Yes	No
• Is there a need for better information about the beneficiaries of land?	18	18 (60%)	12 (40%)
• Is there a need for easier access to information about beneficial ownership?	14	14 (50%)	14 (50%)
• Should powers be available to Scottish Ministers to investigate beneficial ownership under certain circumstances?	18	18 (67%)	9 (33%)

The responses indicate that over a third (35%) of respondents held views on beneficial ownership but very few of these respondents appeared to have a clear definition of beneficial ownership. Very few organisations appear to have attempted to obtain information on beneficial owners of rural land, and all of these organisations noted that they had encountered difficulties in tracing the beneficiaries.

Despite the apparently limited understanding of beneficial ownership, more than half (18 respondents or 60%) of respondents replying to the question on information about beneficial ownership (30 in total) considered that better information about beneficial owners was needed. However, ten of these eighteen respondents had indicated in the previous questions that they had not tried to obtain information about beneficial owners in the past. Very few comments were provided in support of the need for more information, the only substantive comments noting: that it is useful to have a contact for communications about the land holding concerned; that there should be information about beneficiaries who are absent in order that they are held responsible; and that such information would be useful in making planning applications. Many of the comments received on beneficial ownership actually relate to absentee owners and this point is picked up in *Section 4* of the report.

Among those respondents who were not in favour of better information, two comments were made to the effect that, provided a local point of contact was available (and the land was being properly managed), then information on beneficial ownership is not necessarily important, and providing a system for obtaining such information would not be justified in terms of cost. A further comment highlighted that some beneficiaries are entitled to restricted benefits only and as such disclosure may give rise to incorrect assumptions of the true position. Another noted that due to changing nature of trusts it was impossible to obtain reliable information on beneficial owners.

Fourteen out of twenty eight respondents (50%) stated that there was a need for easier access to information about beneficial land ownership. However only three respondents elaborated on why this was needed, stating that information should be made easily available to local communities for planning and development purposes, to promote compliance by non-UK beneficiaries and to help promote more sustainable and stable ownership.

When asked about vesting powers in the Scottish Ministers to investigate beneficial ownership, a majority of respondents (18 out of 27) considered that

such powers should be available under certain circumstances. Inconsistently, four of these sixteen respondents had previously considered that there was no need for easier access to information on beneficiaries, and that there was no need for better information on beneficial ownership. Among the comments provided by those in favour of Ministerial powers were: that such powers were essential; that they should be used only to protect the public interest; that it was anomalous that such powers did not already exist; and a feeling that it was a democratic right. A few respondents elaborated on the circumstances under which powers might be used, with community rights of ownership being raised by three respondents and one considering that powers would be appropriate where landowners hindered legitimate economic development or caused environmental damage to land. One comment by a respondent opposed to providing such powers was that intervention by Ministers in such matters could trigger grounds for an appeal under the European Convention on Human Rights (ECHR), and that it would be preferable to have as fully articulated a legal solution as possible to demonstrate fairness.

Further comments on beneficial ownership suggested that there could be compulsory disclosure of the details of beneficiaries when applications for grants from public bodies were made.

C1.8 INFORMATION SYSTEMS

A total of 22 respondents completed or partly completed the section of the questionnaire which related to specific and technical issues for information systems (the 'green pages'). Due to this low level of response the following paragraphs summarise the feedback provided in qualitative terms only.

- On computer issues, the majority of respondents specified that a database system with on-line access (potentially remote access over the internet or through terminals at specified locations such as libraries or Council offices) would be suitable. Where on-line systems were not an option, CD ROM could be used. Systems should be as simple to use as possible.
- The spatial coverage of the system in terms of a minimum land holding area varied at the lower end from all land holdings to 0.1 hectares. The largest threshold size suggested was 50 hectares. Five out of 18 respondents stated the system should cover all areas, two said it should be as small as possible and the average area from the 11 quantified responses was 10 hectares.
- A range of mapping scales were also suggested from very small scale (1:500, 1:1000, 1:1250, 1:2500) to more manageable scales such as 1:10000, 1:25000 and 1:50000. The approximate average scale suggested was 1:10,000.
- Only 6 respondents considered that confidentiality issues might need to be addressed, including sensitivity over personal details such as telephone

numbers and data protection. It was suggested that since the government already holds much data on land (*eg* IACS), arrangements could be made to free up this information for a database. Negotiation between the local authorities, Scottish Landowners Federation and Scottish Executive was also suggested as a means to break down any problems with confidentiality. Any system must be protected from mis-use.

- The majority of respondents considered the database could include other
 information and it was suggested this could be accessed through websites,
 for example to reach geographical information on land grants, natural
 heritage designations and land use policies. Other suggestions for
 information to be included were details of property transactions,
 nationality of owners, contact information for land managers (not just legal
 owners) and historical ownership.
- Very little information was provided on estimated set up costs. Two respondents considered the cost of a database as "enormous" and one estimated it as less than £500,000. The majority of respondents considered that users should be charged, and this could be done through per-enquiry charges and/or annual subscription. Enquiry charges were suggested as £5-10 or £20-40 per enquiry, with no charge being made if the required land record was not available. One respondent noted that unless enquiry charges were very low the system would not be used extensively.

A few examples of other land database systems were provided by respondents these include:

- Scottish Enterprise Tayside who operate a rural derelict land and property database;
- a land ownership mapping exercise undertaken in Slovakia called Lesoproject;
- Crofters Commission land database;
- "Estateman" which appears to be software for land managers; and
- the data held on farm units by SERAD.

These, and other systems mentioned during consultation such as those used in several states in the USA, may provide useful examples for further investigation if the study is required to examine technical aspects in more detail.

C1.9 SUMMARY OF SURVEY FINDINGS

Although 86% of respondents to date have indicated that their organisation makes use of information on land ownership in rural Scotland only slightly more than half of these groups have attempted to obtain information from the Registers of Scotland. Many groups responding to the questionnaire are also aware of other sources of information on land ownership although again the responses suggest limited practical experience in obtaining information from these sources.

A variety of uses are made of information on land holdings by respondent organisations and the survey has shown that information on rural land holdings of a small size (less than 5 hectares) is generally required more often than for larger holdings, although sixty percent of the organisations surveyed make use of information on all sizes of land holdings.

Just under half of the respondents (46%) considered that present information systems were suitable for their information needs. No pattern could be observed in the types of organisation responding on suitability of current systems. Amongst those who indicated that present systems were not suitable, 32 respondents (78%) indicated that their organisation wanted better information on land ownership although only 23 (58%) were prepared to pay for better information.

Those organisations in favour of improving information systems put forward a range of suggestions on improvements. The use of GIS based systems with on-line access was frequently raised although ease of access to data which are up to date and at a reasonable cost was also important.

Respondents were then asked to comment on the need for a new database. A total of 19 out of 40 respondents (48%) considered that a non-legally definitive system would have benefits, and 29 out of 42 organisations (69%) thought that a new source of information on land holdings should be established. As a proportion of the total sample of respondents however, these 29 organisations represent only 40% in favour of a new database. However, if the system was to have a threshold on the size of land holdings to be included, the number of respondents who considered that it would still be useful fell to twelve (or 32% of those responding to the question and only 16% of the overall sample). A larger number of respondents (37 or 86% responding) considered that the Land Register should be completed more quickly.

In the event that a new database was to be established, the majority of respondents favoured development and maintenance of the system, and its finance, by the Scottish Executive.

The survey has also yielded some limited information on the awareness of respondents of beneficial ownership as an issue and the need for better information on beneficial owners. More than half (60%) of those responding considered that better information was required, and 67% considered that powers should be available to Scottish Ministers to investigate beneficial ownership under certain circumstances. There was evidence of confusion over what beneficial ownership means and a number of different types of issues were reflected in people's apparent understanding of the term.

Annex D1

Workshop Attendees

ORGANISATIONS REPRESENTED AT LAND HOLDINGS WORKSHOPS

Edinburgh Workshop, 26 June 2001

Organisation	Representative
Cala Homes	Mr Rod Howat
East of Scotland Water	Mr Alex Dowman
Historic Scotland	Dr Noel Fojut
National Trust for Scotland	Mr Charles Dickens
Registers of Scotland	Mr Alistair Rennie
Scottish Council for Voluntary Organisations	Mr Jim Lugton
Scottish Enterprise Renfrewshire	Mr John McGuire
Scottish Landowners Federation	Mr Michael Smith
The Law Society	Mr Malcolm Strang Steel
Tillicoultry Community Council	Mr Ian Gordon
-	Mr Andy Wightman

Inverness Workshop, 28 June 2001

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Annex D2

Study Consultees

ORGANISATIONS CONSULTED DURING LAND HOLDINGS STUDY

Organisation	Representative
Aberdeen University	Professor Roddy Paisley
Argyll & Bute Council	Mr Graham Whitefield
Crofters Commission	Mrs McKinnes
Fernaig Community Trust	Mr Colin Parsons
Forestry Commission	Mr Peter Rankin
Highland Council	Mr Jonathan Shepherd
Highlands & Islands Enterprise (Community	Mr Alistair Nicholson
Land Unit)	
Loch Shiel Jetties Trust	Mr Hugh Donaldson
McLean & Stewart WS	Mr Tom Allen
National Trust for Scotland	Mr Charles Dickens
Registers of Scotland	Mr Alistair Rennie, Mr Marcus McKenzie
Royal Burgh of Sanquhar Community Council	Mr Duncan Close
RICS Scotland	Ms Lynne Raeside
RSPB Scotland	Mr Ian Hislop
Sandbank Community Council	Mr Stuart McIlvar
Scone & District Community Council	Mr F Parkey
Scottish Civic Forum	Mr Bill Brash
Scottish Enterprise Tayside	Mr Steve Luker
Scottish Environment Protection Agency	Mr John Ford
(SEPA)	
Scottish Homes	Mr David Nichol/Ms Kirsten Allen
Scottish Landowners Federation	Mr Michael Smith, Mr Robert Balfour and Mr
	Maurice Hankey
Scottish Natural Heritage	Mr Peter Pitkin
Scottish Woodlands	Mr John R Dixon
Shieldaig Community Council	Mr Richard Munday
Tayside Valuation Joint Board	Mr John Galbraith
The Law Society	Mr Malcolm Strang Steel
-	Mr Andy Wightman
Voluntary Action Lochaber	Ms Karen McInnes