

How to find out **who owns the** land...



Growing
Together

WE ARE GROWING TOGETHER

Foreword

Growing Together is delighted to have worked with the Community Land Advisory Service [CLAS] Scotland to provide this timely and important tool for our communities. Community growing is important as it offers a range of benefits; from improving the environment and our health and wellbeing, to providing food and learning opportunities. There is something for people of all ages and abilities.

Securing land enables communities to turn spaces into pleasant places that can provide education programmes, play schemes, healthy living initiatives, work and skills training, social enterprises, volunteer opportunities, environmental schemes, horticultural therapy groups, and facilities for people with disabilities - the list goes on and on!

We encourage you to use this helpful tool to see Who Owns the Land and help your community thrive.



Growing Together is a partnership initiative of community and environmental sector organisations that works with community growing groups to unlock income, land and skills to help them generate income and become more financially sustainable.

www.growingtogether.community

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1.1 Introduction

This resource provides information and guidance on how to find out who owns land in Scotland using the national land title registers, the Land Register of Scotland and the Register of Sasines (pronounced “say-zeens”.) For nearly 400 years, it has been impossible to become owner of land and buildings in Scotland without registering one’s title in one or other of these registers. Accordingly they are a highly comprehensive source of information as to land ownership.

The Registers are compiled by Registers of Scotland (RoS), which is a non-Ministerial Department of the Scottish Administration. RoS perform the functions of an official called the Keeper of the Registers of Scotland, and in practice the names “Registers of Scotland” and “the Keeper” are used interchangeably.

All of the Land Register records are held by RoS. The Register of Sasines records are held partly by RoS and partly by a second Scottish Administration department, National Records of Scotland (NRS). Confusingly, NRS’ functions include carrying out the functions of a different “Keeper”, the Keeper of the Records of Scotland. The distinction between these roles is discussed further later. However, in any ownership enquiry, the starting point is always with RoS.



1.2 How to Contact Registers of Scotland

RoS have offices in Edinburgh and Glasgow, and it is also possible to make enquiries by post, email and phone. Although it is more expensive to visit their offices in person (see below), particularly in a difficult title investigation, it may be better to speak face-to-face with one of their customer service advisers as there is room for misunderstandings about the exact property one is concerned with and the information one needs when communicating by remote means.

If planning to make a visit in person to the Customer Service Centre in one or other of RoS' offices, it is best to arrange this in advance by phone or email. This will ensure that someone with the right expertise is available to help with your enquiry, and allows RoS to collect some initial information, allowing them to do some preliminary investigation in advance of your appointment.

RoS' contact details are: -

Edinburgh Office

Meadowbank House
153 London Road
Edinburgh
EH8 7AU

0800 169 9391

Glasgow Office

Hanover House
24 Douglas Street
Glasgow
G2 7NQ

0800 169 9391

1.3 The Fees that RoS charge

Although a governmental department, RoS are required to be financially self-sustaining and accordingly have to charge fees for conducting searches in the Land and Sasine Registers. Their fee rates are set in Statutory Instruments made by Scottish Ministers, and RoS have no discretion to reduce or waive the statutory charges, even for enquiries by charities and voluntary groups.

The current charges for each individual step of searching activity are £20 plus VAT for an enquiry by phone, post or email; or £30 plus VAT for an enquiry in person (prices correct at 1 June 2016 – for current rates see <https://www.ros.gov.uk/services/fees/information-services-fees>.) If title

to a given property is in the Land Register, the identity of the owner can normally be found in one or two steps of searching. However if title is in the Register of Sasines, more searching steps may be needed.

A problem with the title information system in Scotland is that, at the start of any given ownership enquiry, it cannot be predicted how much the searching will cost. That in turn creates difficulty for seeking grants or other funding to cover the costs of landownership enquiries. However, you can agree with RoS a maximum amount of charges that they will run up without reverting back to you, for example £100 plus VAT.

1.4 Registration Counties

The Land and Sasine Register records are referenced and indexed by the counties in which titles are located. However, confusingly, the 33 counties used for registration purposes differ from both the current and pre-1974 local government administrative areas. This means that the appropriate registration county for a site may be different from the current Council area.

FOR EXAMPLE –

- The City of Edinburgh is in the registration county of Midlothian
- Aberdeen City is partly in the registration county of Aberdeen, and partly in the registration county of Kincardine
- Livingston is partly in the registration county of West Lothian, and partly in the registration county of Midlothian
- Different parts of Glasgow City are variously in the registration counties of The Barony and Regality of Glasgow, Renfrew, Dunbarton and Lanark.

Accordingly it is better not to make assumptions about what registration county a site is located in, but to check with RoS. There is a map of the registration counties and gazetteer of which counties places are in on this link: -

https://www.ros.gov.uk/__data/assets/pdf_file/0012/6222/P33_Land_Register_Counties.pdf

2. The Land Register of Scotland

2.1 Introduction

The Land Register of Scotland is a map-based register of title, which was commenced in 1981. It is very similar to the property registration system that has been in place in England and Wales since Victorian times. The Land Register is easy to search and relatively easy for non-specialists to understand. However, it is currently very far from being a complete record of who owns which land in Scotland. At present only about 60% of the estimated total number of land titles in Scotland are in the Land Register, and around 70% of the land area of Scotland remains unregistered.

2.2 Triggers for First Registration and the County-by-County roll out

Until recently, the title to any given site would only be entered into the Land Register following the first sale of that property after the relevant registration county was declared operational for land registration purposes. That initial entry of the title into the Land Register is described as “first registration” and the sale is the event which “triggered” that registration. The County of Renfrew was the first county declared operational, on 6th April 1981. The operation of the Register was then gradually rolled out across Scotland, beginning in the west of the Central belt, over the next 22 years, with the final counties in the far North becoming operational on 1st April 2003 (the fact that the more rural counties were left until later explains the apparent disparity between the percentage of titles registered and the percentage of land-mass on the Register.) A full list of the counties and their respective operational dates in on this link: - https://www.ros.gov.uk/__data/assets/pdf_file/0006/27645/LR_counties_and_operational_dates.pdf

For example, if you are looking to find the owner of a site in Dunbar, the relevant registration county - East Lothian - became operational on 1 October 1999. That means that if the site has been sold since that date, the title will be in the Land Register. However if the site has not changed hands since before that date, it will probably not be in the Land Register.

2.3 Plans for completion of the Land Register

Under the original legislation that governed the operation of the Land Register, it was not normally possible for a title to be entered into the register if there had not been a sale of the property. This meant that the Land Register could never become a complete record of who owns what in Scotland. This problem was resolved by the Land Registration etc. (Scotland) Act 2012 which has changed the trigger events for first registration and for the first time has permitted RoS to unilaterally enter a title into the Land Register even when no transaction has taken place with the property (a process known as “Keeper-induced registration.”)

This means that the Land Register can now become a complete record of the ownership of Scotland, but it will take RoS some years to enter all of the unregistered titles into the Register. The current aim is to complete the register by 2024, with all land owned by public bodies being registered by 2019.



2.4 The Main Components of the Land Register

The Land Register is made up of a number of sets of data. For those seeking information about current owners of land, the two most important datasets are the title sheet record and the cadastral map.

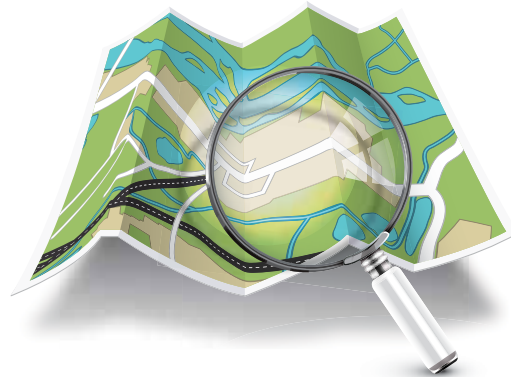
The title sheet record is the main record of textual data in the Register. Each individual unit of property held in separate ownership from the surrounding property is called a “plot.” Plots can be large or small; for example a whole farm or a Highland estate may be a plot so long as it is all owned by the same owner, but equally something as small as an electricity sub-station may be a discrete plot.

Each registered plot has a unique identifier called a title number which is made up of a three-letter abbreviation for the relevant registration county together with numbers – for example GLA99802 is a plot in Glasgow.

Each registered plot has a title sheet which contains text data about the current ownership of that plot and other legal rights and obligations that apply to it. Title sheets are described further in section 2.6 below.

“Cadastral map” is the technical term for a map which shows property ownership boundaries. The cadastral map is a map of the whole of Scotland, kept in electronic form. It comprises the “base layer” or “base map,” which is the largest scale Ordnance Survey mapping available for the given area (urban areas are usually mapped at a scale of 1:1250, with more rural areas mapped at 1:2500, and the most remote mountain and moorland areas mapped at 1:10000.) The base map shows physical, topographic features such as buildings, walls, fences, roads and rivers.

When RoS first register a new plot in the Land Register, they overlay onto the base layer the title boundaries of that plot. Most often this is done by placing a red edge around the legal boundaries to the plot (note that legal title boundaries do not always coincide with physical features such as fences), but sometimes other drawing techniques such as shading or hatching are used. The area that has been so delineated on the cadastral map is known as a “cadastral unit,” and normally there is a one-to-one relationship between cadastral units and plots, with the cadastral unit being given the same unique reference number as the plot. This allows the relevant textual data for a plot to be found from the map and vice versa.



2.5 Searching the Land Register

The information in the Land Register can be searched in various ways.

The Register can be searched by the names of current proprietors of plots. However as this note is concerned with the situation where one is trying to establish the identity of a proprietor, this will not be discussed in detail here. The ability to search by names of former proprietors is limited in respect of previous owners who had held but subsequently disposed of a site in the period between its first registration in the Land Register and 8th December 2013.

The Register can also be searched by the postal address of a site. This is satisfactory where the site has a clear postal address comprising a street name and number, as urban houses and commercial buildings usually do. However, patches of unbuilt land that may be potentially suitable for community garden projects often do not have obvious addresses. A gap-site lying between 12 and 16 Station Road is likely to be 14 Station Road, but for many sites the address may be unclear.

In such cases, the great advantage of the Land Register is that it is map-based. Accordingly, if you can draw the location and boundaries of the site onto a map (or aerial or satellite image), if the site is registered in the Land Register, RoS will be able to find the title to it.

The mapping and imagery that can be printed off without cost from Google Maps (<https://maps.google.co.uk/>) are often good for this.



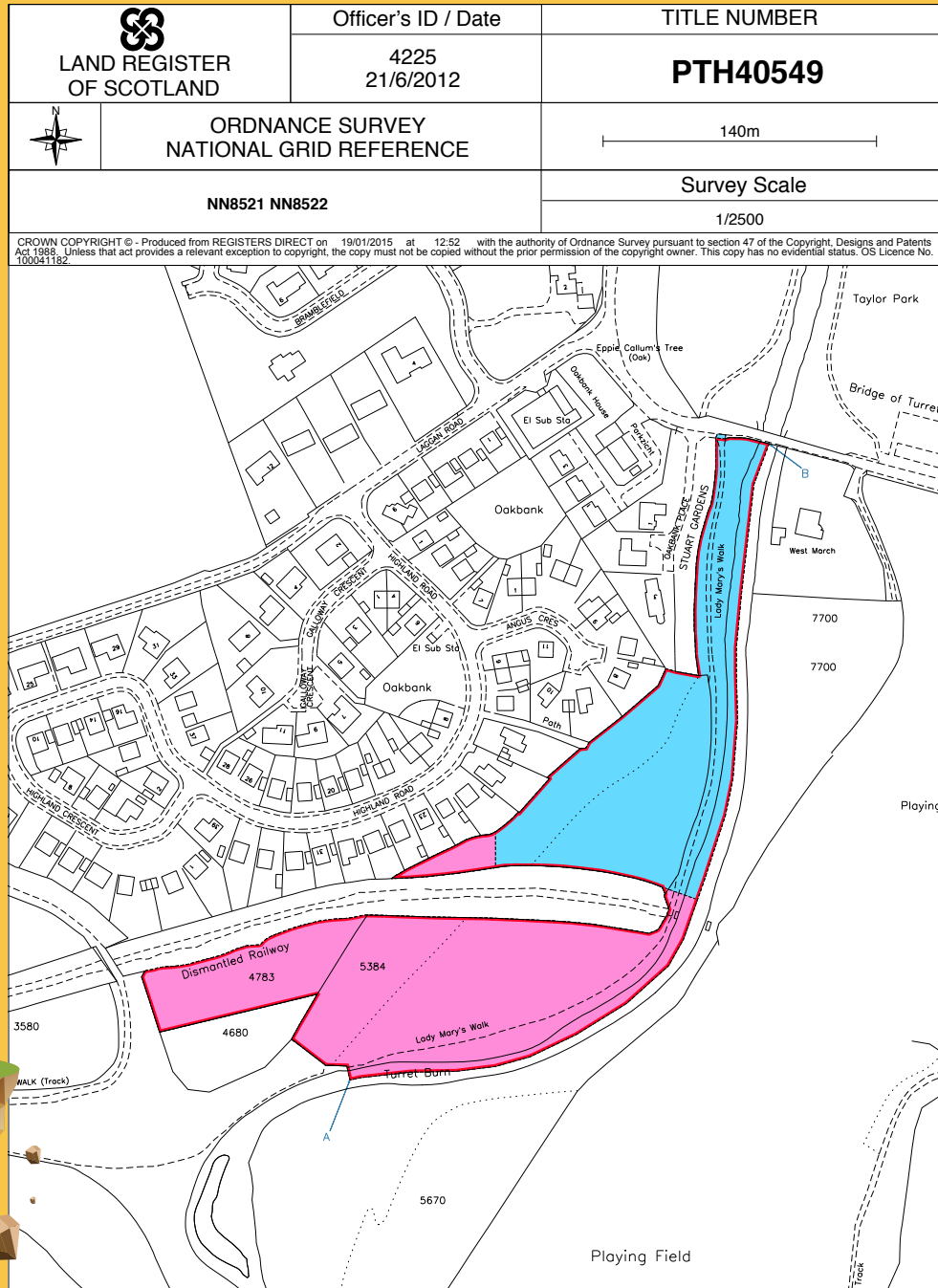
It is important that the map or image includes enough surrounding detail to allow RoS to locate it on the base map, such as a junction between two named or numbered roads, or a significant building (in the example in Fig. 1 above, there is such a junction in the bottom right of the image, and the large building half way down the right hand side is the local High School.)

Alternatively or additionally, you can give RoS details of the location of the site by giving grid references for the corners. If taking grid references on the ground with a GPS instrument, ensure that this set to the British National Grid and the WGS64 setting. Include the alphabetic reference of the relevant 100km grid square and a 10 or 12 digit numerical reference (a 10 figure reference describes a 1m² area) – for example NT 43567E 79342N.

RoS provide a pro-forma application form for making an electronic application for a Land Register search on this link <https://www.ros.gov.uk/services/ownership-search> . This includes functionality allowing one to upload an electronic copy of a plan or image showing the location. However use of this form is not compulsory.

2.6 Reading a Title Sheet

The Land Register record for any given plot comprises a title plan for that plot and a title sheet. The title plan is an extract from the cadastral map which shows the location and boundaries of that plot.



[fig 2 – A title plan]



Registers Direct - Land Register: View Title PTH40549

Search Summary

Date:	19/01/2015	Time:	12:48:48
Search No.:	2015-00171207	User Reference:	
Sasine Search Sheet:	51851		

A. PROPERTY SECTION

Title Number:	PTH40549	Date of First Registration:	16/05/2012
Date Title Sheet updated to:	16/05/2012	Date Land Certificate updated to:	16/05/2012
Hectarage Code:	2.8	Interest:	PROPRIETOR
Map Reference:	NN8521		

Description:

Subjects being the area of ground at TURRET BRIDGE, CRIEFF edged red on the Title Plan being 2.8 hectares in measurement on the Ordnance Map.

Notes:

1. The boundary between the points lettered A - B in blue on the Title Plan is the centre line of the River Turret. Indemnity is excluded in terms of Section 12(2) of the Land Registration (Scotland) Act 1979 in respect of any loss arising as a result of the said boundary being declared or found to follow a different line from that shown on the Title Plan at any time.

This is a Plain Copy which reflects the position at the date the Title Sheet was last updated.

B. PROPRIETORSHIP SECTION

Title Number:		PTH40549		
Entry Number	Date of Registration	Proprietor	Consideration	Date of Entry
1	16/05/2012	ANGUS MACDONALD Arduithie House, Perth Road, Crieff, PH7 3EQ and ROBERT SHIELDS FERGUSON Burnside Cottage Burlawyers Estate, Comrie Road, Crieff, PH7 4PZ and the survivors and survivor of them as Chairman and Secretary and therefore Trustees of	£10000	04/05/2012

The title sheet contains textual information about the property and is divided into four sections.

The Property Section (or A Section) gives a verbal description of the property which can be read in conjunction with looking at what is delineated on the title plan. Where the property has a postal address and postcode, these will be given. The verbal description may also clarify details about the boundaries that cannot be seen on the plan, for example that the boundary is the outer face of a wall, or the centre line of a fence.

The Property Section will also (either directly or by a reference to a special type of title sheet called a shared plot title sheet) detail any ancillary or "pertinent" ground that is shared between this plot and other plots, for example a shared access road or driveway. The words "a right in common to ..." may appear; this means a share in the ownership of a shared area.

Where the plot has a right to take access over other land, but no share in the ownership of that land (a servitude, or wayleave) this may also be detailed in the property section. However what the Land Register says (or omits to say) about access rights is not conclusive as to the existence or otherwise of such rights.

The Proprietorship Section (or B Section) gives the name of the current owner of the plot. The proprietor may be a natural person or a legal entity with separate legal personality, such as a company or a local authority. The property may be solely owned by a single person or co-owned by two or more persons – for example matrimonial homes are often co-owned by husband and wife.

The Proprietorship Section gives an address for the proprietor, but this is that person's address immediately before they purchased the property, and it may not be up-to-date. The date of purchase is given in the Proprietorship Section under the heading "date of entry." Where an address proves to be out of date, it may be necessary to investigate other public records to try to find the current contact address, for example the electoral register in the case of natural persons, or Companies House records for companies.

The third section of the title sheet is called the Charges Section or Securities Section (or C section.) This contains details of any mortgage deeds (technically called "standard securities") outstanding over the property. This is significant if you are seeking to negotiate a lease of the land, because the owner of mortgaged property cannot grant a valid lease without the consent of the mortgage lender.

The final section of the title sheet is the Burdens Section (or D Section.) This contains details of any title conditions or "encumbrances" that have been imposed in prior conveyancing deeds. Such conditions may restrict what can be done with the property. There are two main types of title conditions. Firstly, real burdens which restrict what the owner and occupier may do with the property – for example the back-greens of tenements are often subject to a real burden that they are to be used for drying and bleaching clothes only and for no other purpose.

Secondly, servitudes which are rights of a neighbouring or nearby property to make some use of your property. For example, an upper flat may have right to take access over the lower flat's garden ground in order to wash its windows; or one property may have right to run water, sewerage or gas pipes through a neighbouring property's ground.

Whereas the first three sections of a title sheet are normally straightforward and easy to understand, burdens sections are notoriously difficult. Often the wording is very complex and legalistic. Things are further complicated as although a restriction may appear in the burdens section of the title to a plot that does not necessarily mean that it remains enforceable. The issue of who has the right to enforce a valid burden can also be very difficult. Even expert property lawyers often struggle to say with any certainty what the effect of burdens section entries are.

It should be noted that only restrictions created within title deeds appear in the burdens section of a title sheet. There are many other forms of restriction on use of property that are not normally disclosed on the Land Register, as

examples those arising from the planning permission system; from listed building or conservation area status; and from building control and standards rules.

2.7 A note about Leases

Leases of property are only registered in the Land Register where they are for a term of more than 20 years (these are known as "long leases.") Accordingly searching the Land Register will not disclose whether a site is subject to a shorter lease, nor give the identity of the tenant where there is such a lease.

Where a long lease has been registered, the details may be included in the title sheet for the plot, or alternatively a separate title sheet may have been made up for the tenancy. A lease title sheet is distinguished from an ownership title sheet by the entry in the "interest" field in the property section; whereas this normally reads "proprietor," in a lease title sheet it reads "tenant."

In the case of a lease granted before December 2013, it is possible that the tenancy may be registered in the Land Register while the landlord's title remains in the Register of Sasines.

2.8 Application Record Searches

Conveyancing deeds take effect on the day that the application for registration is received by RoS. However there is a time-lag between when a deed that changes property rights – such as a change of ownership – is presented to RoS and when the relevant changes to the information given on the title sheet are made. Sometimes changes to the cadastral map may be needed too, for example where only part of a plot is sold. Currently this time-lag is normally only around 30 days, but in the past it has been much longer.

The Application Record is the dataset that conveyancers use to check whether there is any pending but as yet unprocessed registration application outstanding that might change the rights to a plot. On the day that a registration application is received, this is noted in the Application Record, and it remains there until processing is completed and the title sheet updated. Where application is made for first registration of an area of land that is not yet on the Land Register (and so does not yet have a title sheet), a marker is placed on the cadastral map to highlight this.

If one simply wants to identify and contact the owner of land with a view to discussing a possible agreement for community use, it will not normally be necessary to make an application record search (which involves additional cost.)

3.1 The Register of Sasines

The Register of Sasines is a historic record of conveyancing deeds. Where title to an area of ground is not yet on the Land Register (see 2.2 and 2.3 above), the next step is to interrogate this register. The process is less straightforward or easy for the uninitiated to understand, but in a great majority of cases where property is not already on the Land Register, a Sasine search will identify the probable owner.

Unlike the Land Register, the Sasine Register is not map-based; it has no equivalent to the cadastral map.

3.2 Historical Background

The word “sasine” (pronounced say-zeen) means “seizing.” In early times, before most people could write, land was transferred by a ceremony of symbolic delivery. The buyer and seller would meet at the site, the seller taking a clod of earth which acted as a symbol for the site as a whole. The transaction would then be effected by the buyer taking (seizing) the symbolic clod from the seller in the presence of witnesses. In time, it came to be that a Notary would also attend the ceremony and produce a written record of the event; from this there developed an early form of written title deed called an Instrument of Sasine.

In 1617, in order to combat the problem of fraudulent double sales of land, the Parliament of James VI passed an Act requiring all sasines to be registered in a public register. This created the Register of Sasines, which is thought to be the first national property registration system in the modern world.

Over the next couple of centuries, the system was developed and improved, reaching its final mature form in the 1870s. Since then the underlying principles and process have remained unchanged although the techniques used have moved with the times, adopting new technologies such as typewriters, photocopying and computerisation as they have become available.

At one time different parts of the records were held in different places. There was the General Register of Sasines (abbreviated to GRS) held in Edinburgh, Particular Registers of Sasines (PRS) were held in the county

towns of the different counties, and the Royal Burghs had their own Burgh Registers (BRS.) As postal services around Scotland became comprehensive and reliable, this division became unnecessary and the Particular and Burgh Registers fell into disuse and were closed off; the Particular Registers closed between 1868 and 1871, and provision to discontinue the Burgh Registers was made in 1926. In investigating current-day ownership, it is rarely necessary to consider the Particular and Burgh Registers and accordingly this note only covers the General Register of Sasines.

3.3 Description of the Sasine Recording Process and Search Sheets

On receiving a conveyancing deed that is to be recorded in the Sasine Register, RoS first enter it into the Presentment Book. This is similar to the Application Record in the Land Register described at 2.8 above and is a temporary record covering the period whilst the recording process is completed.

Once RoS' staff have been able to check the deed in detail, a short summary of its terms is prepared. These summaries are entered in chronological order into the Minute Book for the relevant registration county. The Minute Books are now electronic, but when kept in paper form, two duplicate versions were made up, the second being referred to as the Abridgements.



Then the full terms of the deed are copied into the Record Volume for the relevant county. Originally this was done by copying the words of the deed longhand into large bound paper books, and the way to refer to where the copy deed was to found was to give the county, year, book number and the folio (page) number of the page on which the copy text begins. Later typing and then photographic copying processes were used to copy deeds into the paper record volumes, but deeds continued to be referenced by book and folio numbers.

In 1989, the Record Volumes started to be compiled on microfiche and book and folio numbers were superseded by the numbers of the relevant fiche, and at which frame on the fiche the copy of the deed in question begins. In 2006, the technology changed again and the Record Volumes began to be created in electronic form, made up of digitally scanned copies of the original deeds. Since then, the locations of deeds in the Record Volumes have been referenced by county, year and yearly running number.

Once recording is complete, the original deed is stamped with confirmation of registration and returned to the party who presented it for registration – usually the purchaser's solicitor in a transfer of title transaction.

At regular intervals, completed Record Volumes are sent from RoS to National Records of Scotland, where they become a part of the national archives. The division of responsibilities between RoS and NRS is that the Keeper of the Registers (i.e. RoS) is responsible for the compilation of the Sasine Register whereas the

382-312
93787

Search Sheet, County of Midlothian.

From SS240.

NE } 45' to Balgreen Rd
NW }
N 2 1/2' from gateway
SE 11' 1/2' to Balgreen Ave. (to 1st. Svt.)
Svt. 9 1/2' to Balgreen Ave.
NW 60' to Balgreen Ave.
20. 1/-

1948 Jun 14 20

1948 Dec 8 20

485 superficial Yards of Ground, whereon is erected House 1 BALGREEN AVENUE, EDINBURGH, bounded on north-west by said Avenue, forming part of Area of ground (bounded on north-east partly by BALGREEN ROAD), II described in Disp. to said Granters, recorded 15th Dec. 1928 - reserving Minerals.

1948 Jun 14 20 PBU DISP. by THE LORD PROVOST, MAGISTRATES AND COUNCIL OF THE CITY OF EDINBURGH - TO Lewis Cockburn, B.L., Ph.D., Civil Servant, 1 Balgreen Avenue, Edinburgh, - of the S. of S. dated June 3, 1948 (from SS 240 241) [Price £ 91.4.5 1/2]

1948 Dec 8 20 DISP. by LEWIS COCKBURN, B.L., Ph.D., Civil Servant, 1 Balgreen Avenue, Edinburgh - TO Christina Pattison Gillies or Frater, 60 Hollybank Terrace, Edinburgh, - of the S. of S. dated Nov. 27, 1948 [Price £ 252]

05544 (No. 152) 5 Feb. 1987 19,263.41.
DISP. by STANLEY POWRIE FRATER, 27 Broockpark Road, Edinburgh and MARION INCHES FRATER or RAXTER, 61/1 Southhouse Avenue, Edinburgh and MARGARET INCHES FRATER, 1 Balgreen Avenue, Edinburgh - TO GRAHAM CAMPBELL GUNN and MARGARET LAIDLAW GUNN, spouses, 86 Drum Brae Park, Edinburgh, equally and survivor, - of The 695 ; which subjects were last vested in CHRISTINA PATTISON GILLIES or FRATER, 1 Balgreen Avenue, Edinburgh from whom said Granters acquired right by Confirmation and Docquet endorsed on Certificate of said Confirmation. Dated 21 and 23 Nov. 1986.

05545 (No. 153) 5 Feb. 1987 19,263.43.
JSTANDARD SECURITY by GRAHAM CAMPBELL GUNN and MARGARET LAIDLAW GUNN, spouses, 86 Drum Brae Park, Edinburgh - TO GOVERNOR AND COMPANY OF BANK OF SCOTLAND, - over the 5085 Dated 7 Nov. 1986.

[Fig 4 – a paper search sheet]

Keeper of the Records (i.e. NRS) is responsible for the preservation of the Register.

The other essential element of the Sasine Register is a record called the search sheets. From the 1870s onward, whenever a deed relating to a particular unit of land was first presented, the Keeper would make up a search sheet for that property. The search sheet gives a short (but not necessarily complete or conclusive) description of the property. That is followed by a precis of that first deed. Then as each subsequent conveyancing deed relating to that property is recorded, a precis of it is added to that search sheet. Thus the search sheet becomes a chronological record of all the conveyancing transactions that have taken place with that property. Crucially, the precis of the recorded deeds includes the date of recording and the book and folio/fiche and frame/yearly running numbers. Thus, the search sheets tell you where in the Record Volumes the full text of the deeds may be found.

Originally the search sheets were compiled on paper but a computerised system was introduced in the 1980s. The layout of the computerised search sheets is the same as that of the paper ones. All of the paper search sheets have now been digitised, allowing RoS staff to look them up on-screen. This means that staff at either of RoS' offices are now able to search the Sasine Register for every county, which was not possible when a physical book had to be consulted.

3.4 How to search for the relevant Search Sheet

There are two indices to the search sheets in each registration county; a persons index and a places index.

The persons index lists peoples' full names and gives the numbers of the search sheets for all properties in the given registration county that each individual owns, or has owned in the past. Although this may not seem helpful when one is trying to establish the identity of the current owner of a site, sometimes local knowledge or research will provide the name of a prior owner. If so, this index can be used to identify the relevant search sheet, and that in turn will provide the identity of the current owner. The more unusual a person's name is, the easier it is to get to the right search sheet; common names such as John Smith tend to throw up a lot of false-positive matches.

The places index lists place names. It is generally easy to consult where a site has an obvious street address with a postal number, but less so when there is no number. Short streets with unusual names are easiest to search against. Longer streets and those with common names (e.g. Station Road) throw up more false-positives, and finding the search sheet for rural land by place name can be hit-and-miss.

Where there is difficulty in finding the relevant search sheet, research can assist. As noted above, former proprietor names can be very useful; old street directories and records such as rating valuation rolls can help. It is also often helpful to look at historic mapping of the area, which can give clues about changes to street names and numbering and disclose old place names that have fallen out of use. The twenty five inch to the mile and six inch to the mile Ordnance Survey county series maps are freely available online at <http://www.scotlandsplaces.gov.uk/> and also often available in local libraries.

Another technique that can be helpful is, if a search sheet can be found for ground that adjoins the site you are interested in, to look into the history of that title. As land has tended to be subdivided over time, tracking back through the history of the adjoining site may take you back to a time at which both that site and the land you are concerned with were in the same ownership.

3.5 Reading a search sheet

Each search sheet is headed by the name of the relevant registration county and the reference number for the particular sheet. It also identifies the series it belongs to; the First Series of search sheets ran from the 1870s (the exact commencement dates vary from county to county) until 1905. The Second Series runs from then until the present day.

This is followed by a brief verbal description of the property covered by that particular search sheet. Elsewhere in the search sheet this property is referred to as "the subjects of search," which may be abbreviated to "S of S."

This description is followed by a chronological list of conveyancing deeds relating to that property that have been recorded. There are very many different types of deed; some are transfers of ownership whereas others have other functions such as creating or discharging securities (mortgages) over the property. A typical listing

for a transfer deed looks like this: -

10 July 1992

18,240.41

DISP. by JAMES HECTOR WATSON, 14 Pentland Terrace, Edinburgh to ALICE PATRICIA HOLMES, 8 Rullion Road, Penicuik of S of S dated 28 June 1992 - £4,000 .

This tells us that on 10th July 1992 a disposition (a type of transfer deed) granted by James Hector Watson (the grantor) in favour of Alice Patricia Holmes (the grantee) was recorded. The consideration (price) given in the deed was £4,000 and the full text of the deed is on microfiche number 18,240 of the record volume for the given county, beginning at frame 41.

Where a deed includes a plan of the property conveyed, this is noted in the listing on the search sheet.

Provided that the title has not since been registered in the Land Register, the current owner of the property is the grantee of the most recent transfer deed. A Land Register search should have already confirmed that the title has not been transferred to the Land Register, but the search sheet provides a double check; if the property is now in the Land Register the search sheet will close with a note (known as a “black note”) giving the Land Register title number. For example “to ELN35623 14 January 2002.”

“Disposition” (which is abbreviated to “Disp.” in the search sheets and Minute Books) is the most common type of transfer deed. Other sorts of transfer deed, and the abbreviations (if any) used include Feu Disposition (Feu Disp); Feu Contract (Feu Con); Feu Charter (Feu Ch); Notice of Title; Notarial Instrument (Not Instrument); Conveyance (Convey); Excambion; Decrees of Adjudication and of Special Service (Decr); and General Vesting Declaration (GVD.)

Two other types of deed commonly seen on search sheets, Standard Securities (St Secy) and Discharges (Disch) relate to mortgages over the property and do not involve a change of ownership.

As in the Land Register, a limitation to the usefulness of the information given in the Sasine Register is that the address given for a purchaser of the property is that at the time the deed was signed, and it may no longer be correct.

Sometimes the information available on the search sheet

is enough to allow one to identify and contact the current owner without needing to see the full text of the deeds in the Record Volume. However the summarised property description on the search sheet may be too concise to be clear that this search sheet does cover the land that you are interested in, or it may be necessary to see a deed plan – if so the Record Volume comes into play.

3.6 Digging Behind the Search Sheet – the Record Volume

The Record Volumes are held not by RoS, but by National Records of Scotland (NRS.) RoS can obtain copies of Record Volume deeds for you, but they charge for this and it may be cheaper to deal direct with NRS (see <http://www.nrscotland.gov.uk/about-us/contact-us> .) Two types of copies of deeds from the Record Volumes are available; “quick copies” and “extracts.” For ownership enquiries, the cheaper quick copies are usually sufficient; extracts have a higher evidential status and are used for legal purposes.

It is possible to see Sasine record volumes in person in NRS’ search rooms in the Register House at the East end of Princes Street in Edinburgh. However it is necessary to sign up for a reader ticket and there are strict rules in force to ensure that the records are not damaged – see <http://www.nrscotland.gov.uk/research/visit-us/historical-search-room/historical-and-legal-search-room-regulations> .

NRS draw a distinction between historical searches, which are free of charge and legal searches for which a small fee is payable. Enquiries into the current ownership of land fall into the legal search category - for more information see <http://www.nrscotland.gov.uk/research/visit-us/legal-search-room>

3.7 Interpreting a Conveyancing Description

In the context of ownership searches, the reason for wanting to look at the text of a deed from the Record Volumes is to find out whether that deed conveyed the land which you are interested in. This involves identifying and making sense of the part of the deed known as the conveyancing description. Conveyancing deeds can be very long and were traditionally written as a single sentence, regardless of length, making for difficult reading.

The trick to finding the description of the property conveyed

is to look for the words “all and whole” (possibly written in capitals or in bold print); these signal the start of the description.

There are two main types of conveyancing description; a description by reference and a particular description. A description by reference refers back to an earlier deed, for example

“ALL and WHOLE that area of ground extending to two and three tenth acres or thereby lying generally to the South of Main Street, Aberdour in the County of Fife more particularly described in Disposition by Colonel Frederick Maximillian in favour of Joseph Burns dated Fifth and recorded in the Division of the General Register of Sasines applicable to the County of Fife on Eleventh, both days of February Nineteen Hundred and Twenty Four.”

Faced with such a description, one has to go back to the 1924 deed to obtain the more detailed particular description of the property. A particular description will normally describe the nature and length of each boundary, for example

“ALL and WHOLE that area of ground extending to two and three tenths acres or thereby lying generally to the South of Main Street, Aberdour in the County of Fife bounded on the north by Main Street aforesaid along which it extends ninety seven feet four inches or thereby; on or toward the east by the medium filum of the Townhead Burn along which it extends thirty two feet three inches or thereby; on or toward the south by a post and wire fence along which it extends eighty three feet nine inches or thereby; and on or toward the west by the centre line of a dwarf stone wall with iron railing along which it extends twenty nine feet eleven inches or thereby”

The words “or thereby” after each measurement means that they are not precise and some latitude is available in interpreting them. However the law is not clear as to how much latitude may be allowed. The Latin expression “medium filum” when used in connection with a boundary that is a river or stream means the centre-line of that feature. Again, contemporary historic mapping can be very helpful for relating an old description such as this to present day features.

Where the deed also has a plan of the site, the description will go on to mention this, for example

“... which subjects are delineated and hatched red on the plan annexed and executed as relative hereto ...”

The deed may then say that the plan is either demonstrative or taxative. If demonstrative, the written description prevails over the plan if the two are different. However if the plan is said to be taxative, it is preferred to the written description.

A disposition or other transfer deed which separates a parcel of land from a larger area owned by the grantor is known as a “break-off” or “split-off” deed. The description in a break-off will carry on to describe that larger area, this being introduced by the words “part and portion;” for example

“... which subjects form PART and PORTION of ALL and WHOLE the Lands of Aberdour more particularly described in Feu Charter by the Fife Coal Company in favour of Major Frederick Maximillian dated Third and recorded in the Division of the General Register of Sasines applicable to the County of Fife on Tenth both days of September Nineteen Hundred and Eleven ...”

3.8 A note about Plans in the Sasine Register

As well as giving a verbal description of the property, conveyancing deeds may also give a graphic representation of the site on a deed plan. Before 1924, there was no facility for copying deed plans into the Record Volumes of the Sasine Register. If a deed recorded before then contained a plan, there is no copy of that plan in public records.

In 1924 it became possible, when presenting a deed with a plan for recording, to lodge a duplicate plan with the Keeper. Where this happened, it is noted in the search sheet listing for the deed. Such duplicate plans are preserved in the national archives along with the Record Volumes, and thus it is possible to see them at NRS.

In 1934, the mode of compiling Record Volumes changed from making typewritten copies to a photographic copying process. From this time onward, deed plans came to be routinely copied into the Record Volumes, and thus are included in copy deeds obtained from NRS.

4.1 Where both Land Register and Sasine searches draw a blank

Where Sasine searches are inconclusive, the problem is more commonly that two or more different titles are found that might be the prevailing legal title to the area of ground in question. However sometimes no possibly relevant search sheet can be found. In this case, there are two possibilities. Firstly, the last recorded Sasine deed may pre-date the introduction of the search sheets in the 1870s. If so, depending on the nature of the site and what is known about its history, there may be scope for identifying the title by searching the Minute Books for the relevant county.

Alternatively, there may have been no transaction with the land since before 1617. This can be the case with local authority land, and also land owned by the older universities. For example, there is land in the Port of Leith which was granted in a Charter to the Magistrates of Leith by Mary Queen of Scots in the late 1500s. Right to the land has transferred by statute to the Provost, Magistrates and Councillors of Edinburgh when Leith was amalgamated into the City in the 1920s, then to the City of Edinburgh District Council and most recently the unitary City of Edinburgh Council without any deeds being recorded in the Register of Sasines. The nature and location of a site may sometimes suggest that it is appropriate to enquire with the local Council or an institution such as a university. Royal Charters of land from the 12th century onward are reproduced in another (sadly incomplete) record held by NRS, the Register of the Great Seal of Scotland.

Although now abolished, Scotland formerly had a feudal system of landownership. This means that if an area of land in the mainland or Western Isles has never been conveyed to anyone else, it belongs to the Sovereign (the position in the Northern Isles is different as these were not part of the Kingdom of Scotland when the feudal system was imposed.) In the Orkney and Shetland Isles there is also the theoretical possibility that ownership may be governed by an unwritten Norse udal title, although it is doubtful whether any such titles still exist.



Further support and information



Community Land Advisory Service [CLAS] Scotland

CLAS aims to help make more land available, and to facilitate access to that land, for use by community gardening and food growing groups across the UK. CLAS is an impartial, collaborative service that aims to help communities and land managers gain satisfactory agreements on access to land by providing advice and guidance on technical lease agreements and related issues.

scotland@communitylandadvice.org.uk

www.communitylandadvice.org.uk



Federation of City Farms and Community Gardens [FCFCG]

Since 1980, FCFCG has worked with community farms and gardens, school farms, care farms, wildlife and roof gardens, community orchards, community-run allotments and community supported agriculture schemes. They continue to help bring community growing into the mainstream, helping growing projects to develop and start, and sharing best practice throughout Scotland and the UK.

Contact us at our office in Edinburgh call 0131 623 7058 or email scotland@farmgarden.org.uk
www.farmgarden.org.uk



www.growingtogether.community



Development Trust Association Scotland [DTAS]

Development trusts all over Scotland are enabling communities to make their own plans and aspirations a reality. The Development Trusts Association Scotland is the national body for development trusts in Scotland, helping to unlock the potential within our communities.

Information and support about setting up a development trust:

T - 0131 220 2456

E - info@dtascot.org.uk

W - www.dtascot.org.uk

www.dtascot.org.uk

Other DTAS projects:



Information and support about asset transfer and community ownership.

T - 0131 225 2080

E - coss@dtascot.org.uk

www.dtascommunityownership.org.uk



Information and support about community share issues

T - 0131 220 3777

E - info@communitysharesscotland.org.uk

www.communitysharesscotland.org.uk



Scottish Land Fund

Iomhas Fearainn Na H-Alba

The Scottish Land Fund

The Scottish Land Fund supports rural and urban communities to become more resilient and sustainable through the ownership and management of land and land assets.

Funded by the Scottish Government and delivered in partnership by the Big Lottery Fund and Highlands and Islands Enterprise, it offers grants of up to £1 million to help communities take ownership of the land and buildings that matter to them, as well as practical support to develop their aspirations into viable projects.

Contact Big Lottery Fund's enquiry line on 0300 123 7110 or email enquiries.scotland@biglotteryfund.org.uk

www.biglotteryfund.org.uk/scottishlandfund



Greenspace Scotland

Greenspace works with a wide range of local and national partners to support the planning, development and sustainable management of greenspaces and green networks as a key part of the green infrastructure of our towns and cities. Their MyParkScotland project provides a crowdfunding site specifically for parks and greenspace projects.

www.mypark.scot

www.greenspacescotland.org.uk



Permaculture Association

Permaculture is a design process for growing which meets human needs, whilst enhancing biodiversity, reducing our impact on the planet, and creating a fairer world for us all. People across the globe are transforming their communities with permaculture.

Through learning and other opportunities, the ScotLAND network can demonstrate practical examples of permaculture design in various different places, and micro-climates, across the country. For more info visit:

www.scotland.permaculture.org.uk

scotlandworker@permaculture.org.uk