INTRODUCTION
Although now retired, I have been actively involved in aspects of land administration since being commissioned by the then Overseas Development Administration to prepare a study on *Cadastral Surveys within the Commonwealth* (HMSO, 1976). Since then I have acted as an academic and been a consultant on land administration in a wide number of countries around the world. I was the prime author of three publications by the United Nations Economic Commission for Europe - *Land Administration Guidelines* (1996), *Guidelines on Real Property Units and Identifiers* (2004), and *Land Administration in the UNECE Region – Development trends and main principles* (2005).

LAND REGISTRATION BILL
Although I have only very recently had my attention drawn to the Bill, I would like to offer several comments

1. I welcome the Bill, which clearly tidies up several loose ends and provides a sound framework for the future. In particular I welcome moves towards electronic conveyancing and initiatives to facilitate the registration of all land in Scotland. The latter is of particular importance if the use of land is to be optimised. I have however a few technical points to raise.

2. I note in §3(4) that a plot of land is defined as an area or areas of land all of which are owned by one person, or one set of persons. This implies that a set of scattered fields belonging to one farmer or even a chain of stores in different towns could be defined as one plot of land. Although there has been precedence for this (for instance on the Isle of Man) it is normal to insist that a plot has areas that are contiguous.

This requirement might appear to cause confusion where, for instance, the garage for a house is further down the street. The UNECE *Guidelines on Real Property Units and Identifiers* suggest the use of the term Property Unit to cover the combination of non-contiguous plots (which are more commonly referred to as parcels - see Chapter V, Section B of the Guidelines). From a land management perspective it makes sense to differentiate between non-contiguous areas.

Many insist that not only must areas be contiguous but also they must have homogeneous property rights. Thus a farmer who owns a field in freehold and an adjoining field in long-term leasehold would normally be regarded as having two plots although under §3(4) these could appear as one. The requirement for homogeneity need not apply in the case of shared areas such as a driveway, which can be treated as an exception, as with servitudes.

The terminology is important when operating within an international land market – for instance linked to EULIS, the European Land Information Service (see [http://eulis.eu/](http://eulis.eu/)).

I suggest that the definition of a plot be reviewed.
3. I note the references to cadastral units and that these are based on what in the English-speaking world is known as cadastral surveying. The Bill ties these units to ownership rather than value. Throughout mainland Europe there are moves to unite the fiscal records that are used for taxation and sometimes for the allocation of subsidies under the Common Agricultural Policy, with the land ownership records held in, for example, the Land Books.

§12(1) of the Bill defines a cadastral unit as a unit that represents a single registered plot of land. This to my reading fails to make the distinction that I think is intended between a plot (or what I would prefer to call a Basic Property Unit) and a cadastral unit.

I suggest that the definition of a cadastral unit be revisited in line with the review of the definition of a plot.

4. The Bill as it stands appears to me to treat some of the legal aspects of land ownership in isolation from the bigger picture. I use the phrase “some of the legal aspects” as there is little reference in the Bill to the nature of tenure or rights that are to be registered – apart from several mentions of access rights and one of sporting rights. Use rights are a key element in land resource management and in property valuation but these do not appear to be addressed. There should at least be a definition of what rights should be registered and what may be considered as overriding interests, including leases that are short in duration.

I suggest that the nature of property rights that are to be registered should be defined.

5. In some jurisdictions there has been confusion over the legal nature of a Land Certificate / Certificate of Title / Title Deed. I am not clear from my reading of the Bill whether any such certificate will be issued after a property has been registered. What proof will a landowner or a mortgage company have that the assumed landowner is the registered owner? What is the legal status of that proof vis-à-vis the information held in the Keeper’s database?

I suggest clarification of the role of Certificates of Title.

6. As I read §103, access to information on the registers is at the discretion of Scottish Ministers. This to me implies that there is no statutory right of access to information held by the Keeper, even for me to see what data are being held about my own property. Likewise there can be no public access to the cadastral map unless the Ministers authorize it. Whereas it is conceivable that some information should not be in the public domain in the interests of national security there should be primary assumption that the public have a right to know who owns what land and under what restrictions. Transparency is fundamental to good land governance and the Registers should be open and accessible to all as a matter of principle with minimal exceptions. The data held by the Keeper are essentially a resource that can be used to benefit citizens and the Scottish economy as a whole.
I suggest that the terms of access to data in the land registers should be reviewed.

7. Underlying all my comments is a concern for the use of land registration information in the wider field of land management. The Bill as it stands reflects attitudes of the 1990s more than the 2010s. In many countries there is a process of convergence between those responsible for land ownership rights, those for use rights and those for the valuation of land. The reasons are complex but are essentially driven by the need for better governance and a more joined-up approach to the exploitation of resources of which land is one of the most important. I do not see this reflected anywhere in this Bill, which seems to stand in isolation. **In my view the Land Registration Bill should address the wider fields of land administration and land management and land policy.**

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