This Note is intended to provide a short glossary of some of the legal terms and expressions commonly encountered in Scots conveyancing and security transactions and to give a brief summary of some general points relating to Scots "Land Law".

Note: Words and expressions highlighted in bold type are more fully defined elsewhere in this Glossary.

**Books of Council & Session**
A central public register for the preservation of writs. The original writ presented is retained and the presentor is provided with an "Extract" (a photocopy of the original) which can be treated as the legal equivalent of the original writ. Registration of a deed for "preservation and execution" allows a creditor to execute summary diligence against a debtor on the debt contained in the deed without recourse to the Courts thus providing a shortcut to enforcement in certain classes of action.

**Charge Certificate**
Document issued to a creditor in a heritable security and contains similar entries to those in the Land Certificate.

**Common Interest**
An interest, as of adjoining users of a common wall or floor not amounting to property, but entitling the party interested to a say in the use of the thing. For example the proprietor of an upper flat has a common interest in the supporting walls of the lower flats.

**Common Property**
Land possessed undivided by two or more proprietors each having an absolute unrestricted beneficial right to a fraction of the whole property. For example in a tenement the common passage and stair are usually the common property of the whole proprietors of the flats and tenement served by that passage and stair.

**Diligence**
Form of execution against a debtor, for example, inhibition
| **Discharge** | The formal deed of release discharging a **Standard Security** and disburdening the property of a fixed charge. It may be a separate deed or endorsed on a **Standard Security**. |
| **Disposition** | The deed or conveyance transferring ownership of land. |
| **Excambion** | An "exchange" of lands. |
| **Feu** | The interest in land granted by a **Superior** to a **Vassal**. (Now abolished) |
| **Feu Disposition** | The deed transferring ownership of land by creation of a **(or Charter) feu** (The feudal system is now abolished). |
| **Feu Duty** | The regular monetary payment made by the **Vassal** to his **Superior** as a return for granting the **feu** (Now abolished). |
| **Feudal Tenure** | A system of landholding introduced in the 11th and 12th centuries in Scotland where there are two or more different interests in the same area of land. No one person "owns" land outright but each holds of and under another in a "feudal chain". A series of statutes culminating in the Conveyancing and Feudal Reform (Scotland) Act 1970, the Land Tenure Reform (Scotland) Act 1974 and the Land Registration (Scotland) Act 1979. The feudal system in Scotland was abolished by the Land Reform (Scotland) Act 2004. |
| **Ground Annual** | The purchase price fixed as an annual sum instead of capital payment on the sale of a property. No new ones have been created since 1st September 1974. |
| **Heritable** | Relating to land. |
| **Heritable Property** | Primarily land and everything affixed to or growing on land such as buildings and trees. It also includes rights directly connected with land such as **servitude**. |
| **Heritable Security** | A Fixed Charge over heritable property. |
### Inhibition
The Scottish equivalent of a "pending action injunction" which renders litigious any land being voluntarily disposed of by the inhibited person and any lease or conveyance of that land reducible at the instance of the inhibitor.

### Keeper
Title of the **Land Register** and **Register of Sasines** Chief Registrar.

### Land Certificate
Mirrors the **Title Sheet** and is part of the document issued to the individual registered proprietor. The Land Certificate will be updated by the Keeper from time to time to take account of any subsequent transaction or by adding additional information as required.

### Land Register
A public register established under the 1979 Act.

Under the registration of title system an indemnity is granted by the Keeper of the map-based Land Register (effectively a government guarantee). This indemnity guarantees loss arising through want of title of the registered proprietor. The Keeper may however make specific exclusions from the indemnity granted and there are standard exclusions contained in the 1979 Act e.g. in questions of title to minerals and enforceability of title conditions.

### Leasehold Tenure
The approach to leasehold tenure in Scotland is different from that in England. Long leases of dwelling houses do exist but are relatively rare. **Since the 1974 Act no new lease of more than 20 years can generally be created over a dwellinghouse.**

### Letter of Obligation
There is inevitably a time gap between the date of the **Search Reports** and the date of the conveyancing or security transaction involved. It is conventional conveyancing practice in Scotland for a "Letter of Obligation" from the existing proprietors' Solicitors' to be granted. This is to provide a personal undertaking from such Solicitor underwritten by indemnity insurance that the **Search Report** will disclose no prejudicial entries in the intervening period between the last Search Date and the Registration Date of the relevant lease, conveyance or security.
| **Missives** | Letters exchanged between Solicitors acting for example for the seller and the purchaser which when concluded and in an agreed format form the contract for the sale/purchase of property. |
| **Property Enquiry Responses** | The Scottish equivalent of local searches received from the Regional and District Councils revealing for example any relevant planning proposals in respect of the property. These are generally less thorough than local Searches. |
| **Registration** | There are two distinct systems of registration of land in Scotland, the old system is one based on written description by registered deed and the other is entirely map based. |
| **Register of Inhibitions and Adjudications** | (More commonly referred to as the Personal Register) A public register relating to persons rather than property and recording any diligence effected against a person. |
| **Register of Sasines** | A public register of deeds established in 1617. Deeds are recorded in this register for publication. A good title to property depends on a minimum ten year period of ownership (twenty years for positive servitudes (or easements)) by one proprietor or successive proprietors following recording of the writ containing the description and appropriate links in title from one proprietor to the next. Title must ordinarily be coupled with possession and both title and possession are necessary to demonstrate good title. It is however unusual to seek evidence of possession unless there is specific doubt as to the extent of property and even then it is not a very common practice. |
| **Searches/Search Report** | Examination of entries in the Register of Sasines, Land Register, Personal Register (see Register of Inhibitions and Adjudications) and Company file Charges Register the primary object being to identify exceptions from the underlying title, fixed charges and inhibitions. Carried out by professional independent Searchers and covered by their indemnity insurance. |
**Servitude**

Similar to an easement which runs with the property is basically created for the benefit of a proprietor of land (the dominant tenement) and entitles the dominant owner to exercise certain rights on or over adjoining land (the servient tenement).

**Standard Conditions**

Schedule 3 of the 1970 Act contains the standard conditions incorporated by reference into **Standard Securities** (copy enclosed). These conditions (apart from Condition 11 redemption and those relating to the powers of sale and foreclosure) can be varied by agreement.

**Standard Security**

The deed creating a fixed charge over property in Scotland introduced by the 1974 Act. The standard security is recorded in the **Register of Sasines** or registered in the **Land Register**. It is now the only competent method to create a fixed charge over heritable property. The 1970 Act gives the procedures for enforcement etc of the security.

**Superior**

Any party higher up the feudal chain. The ultimate Superior is the Crown. The Superior retain no physical interest in the land but retain a legal interest and may enforce any conditions imposed when the feu was granted. (Now abolished).

**Tenement**

Flatted property: in Scots Law ownership can be divided both horizontally and vertically within a single building. Thus allowing, for example, separate ownership of flats within a block. This can also result in what in England would be regarded as "flying freeholds". If a building is destroyed or demolished the proprietors of the separate floors will still have title to the airspace which their property once occupied.

**Title Sheet**

Is a summary of the salient points in the title which the Keeper prepares (and retains permanently as part of the Land Register) following upon an application for registration and is divided into four parts namely the Property Section, the Proprietorship Section, the Charges Section and the Burdens Section.
Vassal (or Feuar)  
The party at the bottom of the feudal chain with the right to use the land and to all intents and purposes the owner of it. (Now abolished).

Warrandice  
Under the Sasine system (see under Registers of Sasine) no guarantee of title is obtained other than from the former proprietors of the property in the form of "warrandice". There are different categories of warrandice namely absolute, fact and deed (which relates to past and future prejudicial acts) and simple, (which relates to future acts).

Warrandice is a latent obligation to indemnify. It expresses or implies, depending on type, that in the case of reduction of a deed or eviction in whole or in part from the property conveyed or leased on account of any fact or deed of the granter or any defect in title (other than a defect accepted or deemed to have been accepted by the grantee), the grantor shall make good the loss or damage arising to the grantee. As the obligation is one of indemnity no claim arises until eviction takes place.