

Guidance on making a submission to the Register of Persons Holding a Controlled Interest in Land (RCI)

Introduction

The Register of Persons Holding a Controlled Interest in Land (RCI) is a publicly searchable register that is managed on behalf of Scottish Ministers by Registers of Scotland. It came into being on 1 April 2022 and the Scottish Parliament extended the submission deadline to 1 April 2024.

The rules that govern the RCI are set out in the Land Reform (Scotland) Act 2016 (Register of Persons holding a Controlled Interest in Land) Regulations 2021 (“the Regulations”).

RCI shows who controls the decisions of owners or tenants (for more than 20 years) of land and property in Scotland, where this information may not be publicly available elsewhere.

The searchable register can be found here: <https://rci.ros.gov.uk/searchentry/search>

It is free to submit and free to search.

It will be seen from the length of this guidance that RCI in relation to the Church of Scotland is a complex matter and the limited time and resource of the office bearers in a congregation would probably be more efficiently deployed in instructing suitably qualified solicitors (whether the Law Department or external solicitors) to make their submissions to RCI.

This guidance will give you an understanding of what information you or your solicitors may require and why, and thus minimise the time and consequent cost involved in the process.

Do I need to make an entry in the RCI?

The Church of Scotland and RCI

The vast majority of properties with titles held in the name of local trustees (NOTE: not in the name of the General Trustees, as these properties are not caught by the legislation) will need to be registered (whether owned or on long term lease).

Due to the fact that congregations are unincorporated bodies they cannot own property in their own right. This means that individuals need to hold the property on behalf of the congregation (the title trustees). We know that because most Church properties have been owned by the church for a long time, they do not appear on the Land Register and in many cases, the older Register of Sasines lists people who no longer have any legal connection with the property (as owner or tenant). This is most likely due to the people named on the title being deceased or having resigned.

“Recorded Person” and “Associate”

In terms of the regulations someone who:

- owns land in Scotland and has an “Associate” with a controlling interest over the land, or
- tenants land on a registered or recorded lease of more than 20 years in Scotland and has an “Associate” with a controlling interest over the land

will be known as a “Recorded Person” and will need to provide information about their “Associates” who influence or control what is done with the land.

Responsibility for registering lies with the Recorded Person.

For unincorporated bodies, an Associate is someone who is responsible for the general control and management of the administration of the body. The legislation says that a person is responsible for the general control and management of the administration of a body if they hold an office or other official position in that regard (such as chair, treasurer or secretary, however that may be described).

In the case of Church properties with titles held in the name of local trustees, the Recorded Persons will be: -

- the original title trustees, in so far as still alive and continuing in office as trustees; or
- If there are no original title trustees alive and continuing in office, the current title trustees.

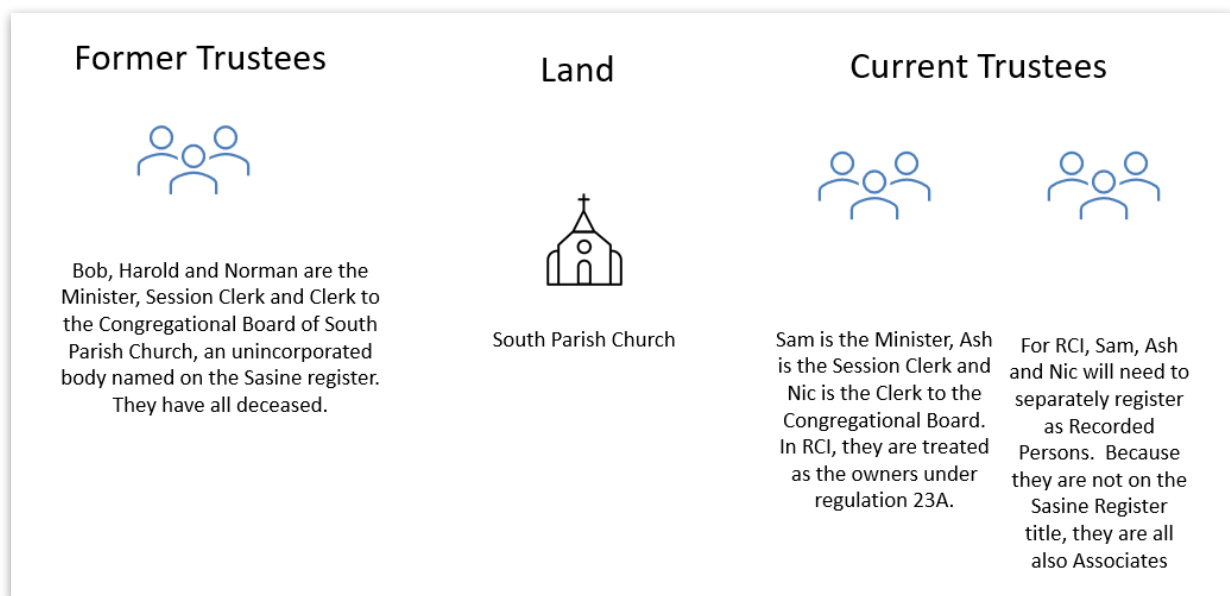
The title trustees can only be ascertained by reference to the title deeds themselves. For example, for the majority of former United Free Church titles, this will be the Minister, Session Clerk and Clerk to the Deacons Court (or such other form of financial board as now exists). If your title deeds are held centrally, the Law Department can check the names or office bearers who are the title trustees.

If all of the original title trustees are still alive and continuing in office there is no need to make a submission in RCI.

If all the original title trustees have either resigned or are deceased, the current trustees or those holding on behalf of the congregation are to be treated as owners. The current title trustees will be the Recorded Person and for the purpose of making an entry in RCI they are also the Associates.

Example 1

The following example illustrates a congregation where the office holders named on the title are no longer present.



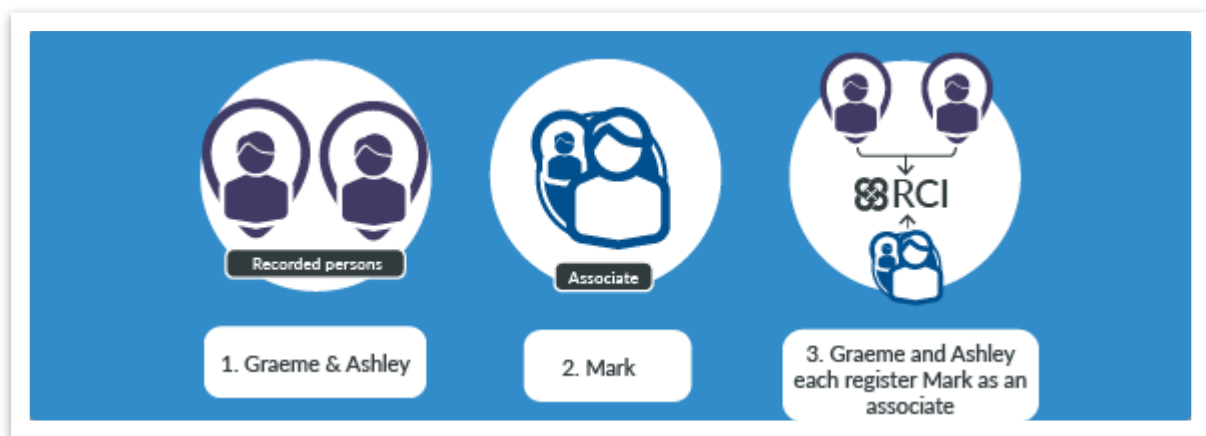
Bob, Harold and Norman are the Minister, Session Clerk and Clerk to the Congregational Board and as such trustees of the congregation of South Parish Church (an entirely fictitious parish at the time of writing), an unincorporated body named on the Sasine register. They were trustees when the church was built in 1930. They have all deceased and there are now different trustees.

1. The current trustees of South Parish Church are Sam, Ash and Nic. Sam is the Minister, Ash is the Session Clerk and Nic is the Clerk to the Congregational Board. In RCI, they are treated as the owners under regulation 23A.

2. Because unincorporated bodies or associations cannot own land in their own right it is the trustees or office bearers who are the owners. Therefore, the Recorded Person will not be South Parish Church. Rather, the Recorded Persons are the current trustees or office bearers.
3. Sam, Ash and Nic will need to separately register as Recorded Persons. Because they are not on the Sasine register title they are also Associates. Sam, Ash and Nic will each need to register one another as an Associate.
4. When Sam registers as Recorded Person he will add himself and Ash and Nic as Associates. When Ash registers as Recorded Person he will add himself and Sam and Nic as Associates. When Nic registers as Recorded Person she will add herself and Sam and Ash as Associates.

Example 2





The following example illustrates a congregation where only some of the office holders named on the title are still present.



1. Mark, Graeme and Ashley currently hold the positions of Minister, Session Clerk and Treasurer of Reay Parish Church of Scotland, (an entirely fictitious parish at the time of writing), an unincorporated body named on the Sasine register. The manse title is on the Land Register.
2. The Land Register title was completed in 2010 and lists three office bearers as trustees, being Graeme (Session Clerk), Ashley (Treasurer) and Lachlan who was Minister in 2010.
3. Because unincorporated bodies or associations cannot own land in their own right it is the trustees or office bearers who are the owners. Therefore, the Recorded Person will not be the congregation. Rather, the Recorded Persons are the trustees or office bearers.
4. In order to register in RCI, Graeme and Ashley will need to separately register as Recorded Persons. They will each need to register Mark as an Associate because he is not on the Land Register title.
5. When Graeme registers as Recorded Person he will name Mark as an Associate. When Ashley registers as Recorded Person he will also name Mark as an Associate.
6. Alternatively, an application for rectification of the land register title (see later)

Example 3

The following example illustrates a congregation that names the office on the title only, not individual names. The current office holders who are not named on the title are treated as the owners and will require to be the Recorded Persons and also the Associates.

Land	Office Holders	Recorded Persons	Associates
 <p>Title to East Parish Church of Scotland is on the Sasine register. The title shows it is owned by "the Minister, Session Clerk and Treasurer as <u>ex officio</u> trustees"</p>	 <p>Barry, Henry and Nicola Barry is the Minister, Henry is the Session Clerk and Nicola is the Treasurer. As current trustees they are treated as being the owners for RCI</p>	 <p>For RCI, Barry, Henry and Nicola will need to register separately as Recorded Persons</p>	 <p>Because they are not on the Sasine register title, they are also Associates</p>

East Parish Church of Scotland (an entirely fictitious parish at the time of writing) is an unincorporated body. Its title is on the Sasine register as the church hall was built in 1935. The names of the individuals who were trustees at this time aren't on the register. Instead, the title shows that the church hall is owned by 'the Minister, Session Clerk and Treasurer as ex officio trustees of the East Parish Church of Scotland.

1. Barry is the Minister, Henry is the Session Clerk and Nicola is the Treasurer of East Parish Church of Scotland. As current trustees, they are treated as being the owners for RCI under regulation 23A.
2. Because unincorporated bodies or associations cannot own land in their own right it is the trustees or office bearers who are the owners. Therefore, in RCI the Recorded Person will not be the congregation of East Parish Church of Scotland. Rather, the Recorded Persons are the current trustees or office bearers.
3. For RCI, Barry, Henry and Nicola will need to separately register as Recorded Persons. Because they are not on the Sasine register title they will also each need to register one another as an Associate.
4. When Barry registers as Recorded Person he will add himself, Henry and Nicola as Associates. When Henry registers as Recorded Person he will add himself Barry and Nicola as Associates. When Nicola registers as Recorded Person she will add herself, Barry and Henry as Associates.

Information required to make an entry

In terms of the Regulations, the Recorded Person must provide the following details:

- Their name & address (the address need not be a home address but should be somewhere the Recorded Person can be contacted by letter)
- The title number of the land, or a description sufficient for it to be identified
- Details of the capacity in which the land is owned
- For each Associate, the “required details”

The required details for each Associate are:

- Name
- Contact address (NOTE: this need not be a home address, it could be the church address)
- Date of birth (this will not appear on the public register)
- Date on which association formed OR a statement that such date is not known

An Associate has a duty to notify the Recorded Person of the fact that he/she is an Associate. An Associate must provide the required details to the Recorded Person and also inform the Recorded Person of any changes to these details. The Recorded Person must take reasonable steps to verify the accuracy of the Associate’s required details with the Associate and inform the Associate about timescales for responding. It is possible to make a security declaration in certain circumstances (noted later), which will result in the information not appearing in the public register.

How to make an entry in RCI

- If solicitors (either the Law Department or external solicitors) are carrying out the registration on the congregation’s behalf, then they will already have their own online account with the Registers of Scotland.
- If the congregation is doing the registration itself, the Recorded Person can go to [How to create an RCI account - RoS Knowledge Base](#) and create a public account which can then be logged into. Remember that each Recorded Person will need their own separate account unless a public account is created with authority to submit on behalf of others, which is recommended for congregations otherwise each Recorded Person will have to make their own entries as Recorded Person and Associate for each property owned by the trustees for the congregation.

Thereafter it is simply a matter of filling in the information requested on screen:

- ✓ Begin with the Recorded Person and then the property, before doing separate entries for each Associate.
- ✓ The system is relatively intuitive and should take you smoothly from page to page.
- ✓ It is possible to save a draft entry and return to complete it later. However, you will have to click through all the previously submitted information again, and you may have to re-enter addresses (and if another Recorded Person has completed an entry in the interim, you may have to change the information you had entered).
- ✓ Each Recorded Person will have to laboriously submit relatively similar information unless an account has been created with authority to submit on behalf of others.

The Law Department will be able to submit the relevant entries at a cost of £200 exclusive of VAT (no VAT is payable for titles containing a clause placing them under control of the General Assembly) based on entries for up to 3 properties (typically church, hall and manse).

Rectification

Trustees of unincorporated bodies – updating the Land Register title

If the land registered title does not show the current trustees of the unincorporated body as the owner or tenant of land, it is recommended the trustees update the Land Register title.

Updating the Land Register title will mean that an entry to the RCI will not be required, provided there is no other person who has responsibility for the general control and management of the administration of the body. This is because the land registered title will have been updated to show the current trustees and be transparent.

Rectification is not possible for land that is held in the older Sasine Register (land which has been registered from about 1980 onwards is likely to be in the Land Register).

Rectification of the land register title will be possible in the following situations:

- To remove trustees who have died or resigned
- To add new trustees who are *ex officio*, following their appointment to that office, for example office bearers

To make and submit a request for rectification of the Land Register title to update the land register title, the process and guidance set out in <https://kb.ros.gov.uk/land-and-property-registration/inaccuracies-and-compensation/inaccuracy-and-rectification> should be followed.

Similarly, where trustees appear in a title sheet as registered proprietors and one of them resigns (or is removed as trustee), the title sheet would be inaccurate because it would incorrectly show the trustee who had resigned/been removed as a proprietor. It would be appropriate to submit a request to rectify to the post-registration enquiries team along with evidence of the resignation or removal of the trustee in question, if rectification is desired.

Exemptions

Scottish Charitable Incorporated Organisations (SCIOs) are not subject to the Regulations. As their information is already publicly available, the Regulations do not require SCIOs to report in RCI.

Security declarations

In RCI the Associate may want to hide their details from being publicly searchable in the register. The Associate can request this if having their details available on the RCI would put them, or an individual connected to them, at risk of:

- violence or abuse
- the threat of violence or abuse
- intimidation

The right to make a security declaration is intended to ensure that no one is put at serious risk through the inclusion of their information in the register, for example, victims of domestic abuse.

Information and evidence must be submitted to ensure that only legitimate security declarations are accepted. The evidence is set out in [Schedule 3 of the Regulations](#). This mirrors what is required for the anonymous voters' registration.

Post-submission Associate notification form

Once a Recorded Person has made the submission to the Keeper, the Recorded Person must notify the Associates added and inform them about their rights and duties. The Recorded Person must do this within 7 days of their submission. The online service provides a mechanism for this information to be downloaded which can be used for notification purposes.

In the case of trusts and unincorporated bodies, where the current trustees are both the Recorded Persons and Associates, the Recorded Person does not need to notify the other Associates that are also both Recorded Persons and Associates, of the submission to the RCI.

Duties of a Recorded Person to notify the Keeper of RCI of changes

When events happen that affect information held on the register, the Recorded Person must inform the Keeper of those changes. The following table shows what information needs to be given to RCI in certain situations to update the RCI entry to reflect the change.

Change	Information to be given to RCI by the Recorded Person
a Recorded Person becoming aware that a person notified as being an Associate, ceases to be an Associate	<ul style="list-style-type: none"> • the Recorded Person's name and address • the title number of the land, or where there is no title number, a description of the land that the Recorded Person owns or tenants which is sufficient for it to be identified, • the former Associate's required details • the date, if known, on which the former Associate ceased to be an Associate
a Recorded Person ceasing to be a Recorded Person of the land	<ul style="list-style-type: none"> • the Recorded Person's name and address • the title number of the land, or where there is no title number, a description of the land that the person owns or tenants which is sufficient for it to be identified • the date on which the Recorded Person ceased to be a Recorded Person

Change	Information to be given to RCI by the Recorded Person
<p>a Recorded Person becoming aware that any other information previously supplied to RCI about them has changed</p>	<ul style="list-style-type: none"> • the Recorded Person's name and address • the title number of the land, or where there is no title number, a description of the land that the Recorded Person owns or tenants which is sufficient for it to be identified • the change to the information • the date, if known, on which the change occurred

After 1 April 2024, this will need to be done within 60 days from the date the change happened. Unless the Recorded Person has a reasonable excuse for not doing so, it is an offence if the Recorded Person does not comply with their duties.

More guidance and video tutorials are available on Registers of Scotland website:-

A Beginner's Guide:-

<https://youtu.be/lvN6VXIBC1E>

Unincorporated bodies (Example 3 starting at 15 secs is most relevant): -

<https://youtu.be/JSvXBOAG35U?t=902>

For further information or advice from the Law Department please contact:-

rci@churchofscotland.org.uk

March 2024