

Consultation on the future of the Scottish Land Court and Lands Tribunal for Scotland – Scottish Government response to the amalgamation questions

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1. On 27 July 2020, the Scottish Government published a consultation on the future of the Scottish Land Court and the Lands Tribunal for Scotland. The consultation closed on 19 October 2020. The consultation asked three questions seeking views on whether there are advantages to be found in unifying the two bodies by incorporating the Lands Tribunal for Scotland into an expanded Scottish Land Court. There were also four questions relating to administrative matters. This response is only concerned with the three questions relating to a merging the bodies.

2. The first question in the consultation asked whether there should be an amalgamation of the Land Court and the Lands Tribunal. Of the 58 responses, 17 were in favour and 17 against with 24 respondents not offering a view, though a few did make useful comments.

3. The second and third questions asked, if the two bodies were to be amalgamated, should the resultant body be a court or a tribunal, and should that body take on extra functions. As regards the question of whether a merged body should be a court or tribunal, 83.3% of the 36 respondents that answered the question would prefer the resultant body to be a court. 34 respondents answered the third question of which 58% were in favour of the merged body being provided with extra functions.

4. After careful consideration of the responses, the Scottish Ministers have decided that legislation to be introduced providing for the Scottish Land Court and the Lands Tribunal for Scotland to be amalgamated with the resultant body being an expanded Scottish Land Court.

5. The main reasons for the Scottish Ministers supporting a merger are that they consider that:

- amalgamation will lead to a more efficient administration of the services offered at present by the Court and Tribunal;
- the sharing of resources and staff will be advantageous;
- the merger will bring a wider range of skills as members from both the Land Court and Lands Tribunal will be available in a unified body. The members will each bring their own particular specialisms to the merged organisation;
- the role of a single body would offer more clarity and certainty regarding jurisdictional matters for those who presently use the Land Court and Lands Tribunal; and
- a 'one stop shop' for a large number of land law matters is preferable to the current arrangements.

6. The Scottish Ministers took note of the objections to amalgamation. They acknowledge that, in the main, the Land Court and Lands Tribunal have different jurisdictions but consider that these can be maintained within a unified body. They also

consider that rules can be drafted which can accommodate the separate rules that appertain at present.

7. The Scottish Ministers noted that an overwhelming majority of respondents favoured the merged body to be a court rather than a tribunal, including some of those who opposed a merger. They agree with this view as they consider that the resultant body should have the authority and powers of a court. It also considers that it is more appropriate to transfer extra powers to an expanded Land Court rather than to an expanded Lands Tribunal.

8. A majority of respondents also considered that the resultant body should take on extra powers which at present lie elsewhere in Scottish justice system. The Scottish Ministers agree. The consultation made some suggestions as to what powers might be transferred to an expanded Land Court and some respondents commented on these and proposed others. In drawing up legislation, Ministers will carefully consider what powers are appropriate for transfer to the expanded Land Court.

9. The intention is to maintain the essential 'character' of the court and for the Scottish Land Court to retain its present functions under similar rules. The Lands Tribunal for Scotland's present functions will be taken on by the expanded Land Court under similar rules to those in which the Tribunal operates at present.

10. The next step is for the Scottish Government to identify a suitable legislative vehicle and to draft the necessary legislation for Introduction into Parliament.



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