The questions raised in the Call for Evidence relate very largely to matters on which we cannot comment.

A question is asked, under Compliance & Enforcement, as to whether the draft Bill’s objectives will be achieved in a consistent manner throughout the UK.

We are not in a position to comment on the provisions in the Bill applying to England & Wales and Northern Ireland in so far as they relate to the different systems of land tenure, registration and transfer of interests in land in these jurisdictions. The provisions in Schedules 3, 4 and 5 relating to the different jurisdictions employ terminology appropriate to the system in question. Accordingly, we are not competent to comment on whether the proposal will achieve consistency on a UK wide basis.

It is to be noted that whereas the provisions in Schedule 3 relating to land transactions involving overseas entities in England & Wales do contain a definition of “qualifying estate” to which the provisions therein apply, there is no equivalent definition in Schedule 4 applying to Scotland. The provisions in the latter Schedule relating to land transactions in Scotland (proposed Schedule 1A to the Land Registration etc. (Scotland) Act 2012) are drafted so as to impose a requirement that the Registrar reject applications for registration of certain “qualifying registrable” deeds involving unregistered overseas entities (paras 1-6). Nevertheless, it appears that the English provisions also effect a prohibition on certain dispositions involving such entities. Accordingly, the absence of a Scottish definition does not create a problem.

18 March 2019