

LAW SOCIETY OF SCOTLAND - REGISTERS OF SCOTLAND

JOINT CONSULTATIVE COMMITTEE

MEETING ON 9th August 2006

Present:

Mrs J Wilson	Mr J Meldrum, Keeper
Mr DJ McNeil	Mr B Beveridge
Mr J Ness	Ms S Adams
Mr S Wortley	Mr I Davis
	Mr M Hollingsworth (Secretary)

Opening remarks

The Keeper opened the meeting and thanked members of the Committee for their attendance. He extended a particular welcome to Mr Wortley and Ms Adams, who were both attending their first meeting. The Keeper also referred to Professor Rennie's decision to step down from the Committee. Members agreed that the Keeper should write a letter to Professor Rennie to thank him for the valuable contributions he had made over the years during which he had been a member of the Committee.

1. **Apologies**

Apologies for absence were received from Mr Most.

2. **Minutes of Last Meeting**

The minutes of the meeting held on 5 April 2006 were approved.

3. **Matters Arising**

3.1 **Review of the Land Registration (Scotland) Act 1979**

Mr Beveridge advised members that RoS had been pleased to be able to offer the services of Mr John Glover, one of the Agency's legal directors, to assist the Scottish Law Commission with their final Report on the review. He would also assist them in producing the draft Land Registration Bill. The Keeper commented that RoS had now provided detailed responses to the Commission on all three of their discussion papers.

Mr Wortley asked whether there would be sufficient drafting resources available to meet the provisional timetable for publication of the Report and draft Bill. Mr Beveridge advised that the timetable was indicative only at present and that the draft Bill was not expected to be ready before the end of 2007.

Mr Ness advised members that the Law Society's responses to all of the consultation exercises that they had taken part in since 2004 would shortly be published on their web site.

3.2 **Automated Registration of Title to Land**

Mr Davis advised members that the project team was currently working up proposals for dealing with the full roll-out of ARTL across Scotland. He advised that RoS considered that it was important to make ARTL available to all solicitors and other users as soon as was practicable. He advised that it was likely that the system would be piloted by a small number of solicitors. Once RoS was satisfied that everything was working as it should it would be made available to all users in a structured roll-out. The committee would be informed of the final proposals for the roll-out at the next meeting in December.

The draft Order to amend the 1979 Act and the Requirements of Writing (Scotland) Act 1995 to permit the submission of electronic documentation has already been considered by the Subordinate Legislation Committee without any issues being raised. The draft Order would be considered by the Communities Committee in mid-September and it was hoped that a motion for its approval by the whole Parliament will follow at the end of September.

Mr Wortley advised members that he had some concerns about the current draft of the Order. He noted that it gave the Keeper the power to issue directions on the submission of ARTL transactions and that it would be mandatory for solicitors to comply with these. Mr Beveridge replied that section 4 of the 1979 Act already gave the Keeper discretionary power as to what documentation he could accept. He advised that the proposed directions related purely to applications made under ARTL and that it was essential that RoS kept up to date with changes in technology. This approach to regulation was necessary simply to give RoS the flexibility to respond quickly to any developments in that field.

Mr Ness stressed that, if the legal profession felt that any directions introduced by RoS were unacceptable, they could simply avoid using ARTL as its use was not in any way compulsory. Nor was it likely to become compulsory due to the requirement for RoS to accept applications directly from members of the public who would not have access to that system. Ms Adams advised that it was RoS's intention to consult on the directions. It was hoped that this would allay any fears that the profession might have on this point.

3.3 Quality of Land Certificates

Ms Adams highlighted the continuous efforts being made by RoS staff to improve quality. While RoS had improved the quality of title sheets, the Agency continued to strive to improve matters further. Data cleansing operations continued and staff had been asked to suggest methods whereby potential improvements in quality could be made.

The quality of applications for registration had recently been improving. Typically, the rate of applications rejected by RoS at the Intake stage was around 12%. However, the introduction of the payment of Registration Fees by Direct Debit had been a major contributor to reducing the rate of rejection to 8.7%. Some 23% of all applications for registration were now using Direct Debit to deal with Registration Fee payments.

Mr Ness commented that he had been contacted by two solicitors who stated that they had not received advice from RoS that they should not use their principal client bank account to make fee payments by Direct Debit. The Law Society of Scotland had issued guidance to solicitors that this account should never be subject to variable direct debit: RoS had undertaken to repeat this advice. Ms Adams agreed to liaise with Mr Ness on the matter.

3.4 Abolition of Feudal Tenure etc

Ms Adams discussed with members the progress being made with the Feudal Abolition Updating Project, the background to the project being set out in the paper. She advised members that this was an expensive project for RoS to undertake, potentially costing an

estimated £3 million per annum over the next 8 years. The pilot updating scheme that was currently operating in East Lothian had shown that, while the majority of cases were likely to be relatively straightforward, there would be a core of complex cases that would require closer consideration.

Mr McNeil expressed his surprise at the sheer numbers of RoS staff who had already received training on how to deal with applications that required dual registration. The Keeper advised that much of this training consisted of relatively short courses of one and two days. Such training was intended to familiarise staff with the new concepts and allow them to identify relevant cases. Members of the former dedicated teams would provide a core of experienced staff as these cases were moved into general production areas.

4. **Report by the Keeper**

The Keeper remarked on how well RoS was currently coping with the higher than anticipated intakes. Intakes of TP and DW applications in particular were 8.3% and 22.3% respectively higher than the same period last year. While the intake of FR applications was 8.2% lower than the same period last year, this was still 3.8% higher than forecast.

Progress on the target to eliminate stocks of legacy casework, i.e. casework submitted prior to 1 July 2002, was very encouraging. Past experience showed that it was necessary to have cleared a greater proportion of the backlog than might seem necessary at this stage in order to allow for reduced outputs over holiday periods. However, subject to cases affected by ongoing court action and cases where the solicitors were actually in correspondence as to how any difficulties could be solved, he was confident that this target could be achieved.

Mr Ness commented that he was very pleased to note that, in addition to the good progress made in clearing the backlog, there were only 61 cases left to be completed that were over five years old, especially so when the sheer number of cases that had been submitted since then was considered. The Keeper thanked him for his comments.

5. **A.O.B.**

It was agreed that there was no other business to discuss.

6. **Date of Next Meeting**

The next meeting of the Committee will be held on a date to be arranged in December.