

**LAW SOCIETY OF SCOTLAND - REGISTERS OF SCOTLAND**

**JOINT CONSULTATIVE COMMITTEE**

**MEETING ON 10 August 2005**

<i><u>Present:</u></i>	Mrs J Wilson Mr D J McNeil Mr L Most Mr J Ness	Mr J Meldrum, Keeper Mr B Beveridge Mr A Smith Mr M Hollingsworth (Secretary)
------------------------	---	--

**Opening remarks**

The Keeper opened the meeting at 1:20 p.m. and thanked members of the Committee for their attendance. He welcomed Mr Most to his first meeting.

1. **Apologies**

Apologies for absence were received from Professor Rennie, Mr Manson and Mr Davis. The Keeper advised that Mr Smith was attending the meeting on behalf of Mr Manson.

2. **Minutes of Last Meeting**

The minutes of the meeting held on 11 April 2005 were approved.

3. **Matters Arising**

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

The Keeper updated the Committee on the progress being made with the review. He advised that RoS expected that the Scottish Law Commission's second and third discussion papers would be published in the autumn.

Mr McNeil queried whether the Commission's usual 90-day consultation period might be too short, though he conceded that this would depend upon both the size and the complexity of the papers. Mr Beveridge advised that the second paper was likely to be much shorter than the first discussion paper and would be more practical than theoretical.

3.2 **Automated Registration of Title to Land**

Mr Beveridge advised the Committee that a "round-up" exercise had been carried out by the project team to ensure that all points raised by the profession were being addressed. The current Finance Bill, which includes provisions enabling RoS to collect SDLT funds and information on behalf of HM Revenue and Customs (HMRC) was before the House of Lords. He commented that the electronic transfer of funds under ARTL would be one of the most attractive points of the system to the profession.

He then advised that a consultation exercise relating to the draft legislation needed to allow documents to be in electronic form would commence shortly. This would both

remove the requirement for paper documents and permit electronic versions of Land and Charge Certificates. This would have wider implications for the future.

Mr Most asked what some of the implications of the collection of SDLT by RoS might be. Mr Beveridge advised that no paper SDLT certificate would be required and that the legislation would allow RoS to act as an agent for HMRC.

There had been a significant amount of discussion on the topic of solicitors' mandates. These would allow a solicitor to sign documents digitally on behalf of their clients. Mr Beveridge advised that RoS were considering making an offer to archive the original paper mandates in order to boost confidence in ARTL. Mr McNeil asked how many mandates might be required for each ARTL transaction. Members agreed that, typically, one per party involved in the transaction would be required. There was some discussion of the arrangements for the delivery and return of mandates to solicitors. Mr Beveridge and Mr Ness would continue to liaise on likely professional requirements.

On a related subject, Mr Ness advised that several law firms in Scotland were trialling the e-submission of SDLT. He had not had any feedback yet, but he was disappointed to note that it appeared to be being piloted in tandem with the existing paper SDLT certificates.

The Law Society members accepted an offer by the Keeper to have the new ARTL system model demonstrated to them at the next meeting of the Committee in December.

### 3.3 Quality of Land Certificates

The Keeper introduced the paper on RoS's Quality Initiative to the Committee. Mr Smith then described how RoS was addressing the problems. He advised that the RoS Data and Information Unit were working with BT to examine the LRS data archive. The object of the exercise was to determine whether it would be possible to flag up historical errors so that they could be corrected.

Mr Smith also advised the Committee that the Ordnance Survey's Positional Accuracy Improvement Programme would lead to a need for RoS to continue to examine title plans in the future.

It was noted that the rate of rejection of applications by Intake remained at around 12%.

### 3.4 Abolition of Feudal Tenure etc

Mr Smith advised that the project was progressing well on the transitional arrangements. All new registration "events" were being directed to dedicated, trained teams of staff. He reminded members that there was an FAQs page on the RoS website that gives solicitors guidance on how to complete applications involving deeds that create new burdens.

East Lothian was the county chosen to trial the new arrangements, due to its mix of properties and land use. There are around 10,000 completed titles in that county to update and he expected that they would be dealt with by early 2006. Mr Smith advised that updated titles would start to be issued in the near future. This would allow best practice and metrics to be developed to inform the further work.

Mrs Wilson asked if Form 12 Reports issued by RoS would show whether titles have been updated. Assurances were given that this would be so, but the form of that notification has not been finalised.

Mr McNeil asked if all Land Certificates would in future be issued in the updated form. He was advised that this would only be done when the titles for that county had been cleansed. The Land Certificates issued for any First Registrations that were completed before the titles within that particular county had been cleansed would not be in the updated form, those issued afterwards would be: individual First Registrations undertaken after a county's existing Land Register entries had been cleansed would reflect the post feudal position.

RoS had supplied members of the Law Society's Conveyancing Committee with some examples of new type deeds that have been submitted for registration since the appointed day. Mr Ness suggested that a small group, including members of RoS staff, could get together and agree some recommended styles to give solicitors some guidance on the drafting of the new types of deeds.

Mr Most observed that Professors Gretton and Reid, in their series of lectures on the Abolition of the Feudal system, had given some suggested styles in their lecture notes. Mr Ness and Mr Beveridge agreed that the better examples that RoS had found of the new deeds tended to follow these suggested styles. Mr Beveridge advised that many of the applications for registration currently being rejected or cancelled by RoS staff were due to the inclusion of invalid deeds.

#### 4. **Report by the Keeper**

The Keeper referred the Committee to the targets that the Scottish Ministers set for RoS. He advised that RoS had proposed a target to deal with older casework and discussed the progress made towards achieving this target. He advised that RoS considered that the peak of FR applications had probably passed.

He then advised the Committee that two Registers Updates had been published on the RoS website. Mr McNeil asked how solicitors without internet access would be able to access these updates. Mr Beveridge advised that a printed copy of all updates was sent to all members of a mailing list held by RoS. He stressed that RoS could only send copies of the updates to those who had requested them, otherwise they might be considered as being "junk mail".

Mr McNeil asked how circulation of the updates could be increased. The Keeper advised that the text of updates was usually incorporated into the "Keeper's Corner" article in the Journal of the Law Society of Scotland. However, sometimes they were too large to fit into the limited space available. He was keen to get more solicitors "sign-up" to receive the updates by post.

Mrs Wilson queried whether the updates could be included in the Journal as "loose-leaf" inserts. Mr Beveridge agreed to look into the costs of having this done. Mr Most suggested that a pullout section in the centre of the Journal would be another option.

#### 5. **Registers of Scotland Fees Consultation**

The Keeper noted that an undertaking had been given at the last review of fees for the provision of information that another would be done in five years time. He advised that a further review was starting to address registration fees and that ARTL was expected to feature in this.

Mr Ness commented that if applications under ARTL were given a reduction in fees it was likely that this would give more firms the incentive to adopt it. Mr McNeil noted that the paper on information fees had been laid before the Law Society members of the committee for information only and this did not in itself form part of the consultation process.

6. **SDLT Certificate Delays**

Mr Ness advised that the problems that solicitors were having with delays in the return of SDLT certificates from HM Revenue and Customs offices were real and serious. He advised that figures in his possession suggested that as many as 15% of certificates sent by Scottish solicitors took 16 days or longer to return to them. The other Law Society members of the Committee agreed that the problems seemed to be getting worse rather than better.

Mr Ness referred to a meeting held recently at the Office of the Deputy Prime Minister He also referred to a recent change in the online software that now prevents a certificate from being post-dated. This means that the certificate cannot now be printed off before completion for the client to sign. This can introduce further delays if clients do not appreciate the need to deal with the document promptly.

7. **Accommodation Review**

The Keeper advised that he was grateful to the Law Society's contribution, especially the reference in their letter to the potential loss of the pool of skills that would occur if RoS was involved in a wholesale relocation. He agreed to keep the members informed as to developments.

8. **Variable Direct Debit Pilot**

The Keeper advised that the pilot had been running for some time now with several large firms and it had been successful. RoS were working on the terms and conditions that would apply to the facility when it became available for general use. The availability of this facility would be widely published when it was ready.

Mr Ness advised that the Law Society was generally in favour of this method of payment due to the reduction in both solicitor's costs and error rates. He expected that they would endorse the facility, with the proviso that firms should be prompted to set up a separate bank account for the variable direct debit to be drawn from.

9. **AOB**

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

10. **Next Meeting**

The next meeting of the Committee will be held on Wednesday 7 December 2005 at 12:30 pm for 1:00 pm. The Keeper closed the meeting at 3:45 pm.