

Response ID ANON-CEQC-5N5B-P

Submitted to **Digital Transformation: Next Steps**

Submitted on **2017-02-21 21:28:51**

Part 1 - New digital services in the Keeper's registers

1 Do you agree that transition to a digital first service should be the next step?

No

Comments:

Agreed that a digital service is the logical next step for dealing with registered titles but as an organisation which deals with a majority of unregistered titles, it is necessary to have the option to use paper for preparing and submitting deeds, where appropriate.

2 Do you agree with the proposed timescale of 1 April 2018 for prescribing that advance notices over part be fully digital?

No

Comments:

Agree in so far as affecting Advance Notices over part of a registered title; not for Advance Notices over part of an unregistered title for which a plan needs to be submitted and the Advance Notice requires to be recorded in the Sasine Register. Producing a plan of our ownership is a challenge particularly from historic deeds and/or descriptions and having to produce it in digital format will add to the expense.

3 Do you agree with a notice period of six months?

No

Comments:

A notice period of 6 months before the new system of electronic preparation, signature and registration is made compulsory is too short for firms and organisations to be expected to be exclusively using and accessing digital services.

We would also strongly urge that electronic signature should not be made compulsory, but that provision should continue to be made for traditional execution of paper deeds. The authority for execution of deeds by the Church of Scotland General Trustees is contained in the Church of Scotland General Trustees) Order Confirmation Act 1921 which stipulates that execution of deeds is effected by signature by named office-bearers and sealing with the seal of the corporation. Any amendment to the method of execution is likely to require a new Act of Parliament, which would be a wholly disproportionate cost when set against any perceived benefit.

4 Do you agree the initial focus for digital registration, following launch of the digital discharge service, should be provision of channels aimed at standard securities and dispositions?

No

Comments:

Straightforward Standard Securities & dispositions over registered subjects would be suitable for digital creation, execution and submission for registration. However, more complex securities over unregistered subjects will not be as suitable for digital registration.

The new digital discharge service does not take account of private lenders e.g. Trusts. We act for a Fund which provides loans to retired Ministers which are secured by a standard security over the property. The Church of Scotland General Trustees frequently use the grant of a Standard Security in their favour to secure development value uplift on a sale. There has been no consultation as far as I am aware to bring such standard securities and lenders into the digital discharge system.

We deal with a large volume of Dispositions creating new reciprocal real burdens and servitudes which will not fit into the template envisaged by the digital system and have concerns about tailoring deeds in a system that is largely format driven. It seems to us that when dealing with land registration, which creates and records fundamentally important human rights in the guise of property rights and responsibilities, form should follow function, rather than vice versa.

The Consultation paper considers that "very occasionally a transfer of title will result in the disposition being registered in the land register and also recorded in the sasine register". We are one of the largest landowners in Scotland in terms of numbers of properties to which we hold title and in the majority of our transactions, this will in fact be the situation, so we would question whether this statement accurately reflects the position across the country, looking at both rural and urban areas.

5 What deed types do you consider we should prioritise for new services subsequent to securities and dispositions?

Comments:

Deeds of Servitude.

6 Do you consider that for the limited purpose of dual recording, it should be permissible to record an electronic deed in the sasine register or should be permissible to record a paper copy of the digital deed?

Comments:

Yes-either method seems fine; the latter more closely resembles the current process of dual registration. Clarification will be required of how dual registration would work with electronic submission given different parties are submitting applications for different interests.

7 Do you agree that ten working days from the date of digital submission is an appropriate period to allow the prior deeds to be submitted?

Yes

Comments:

This is appropriate and ensures that the registration is not delayed beyond the protected period of the Advance Notice.

8 Do you have a view on alternative ways you would like to present supporting documents accompanying a digital application?

Yes

Comments:

The Consultation Paper states that "In around 90% of all applications to the land register relating to a disposition, no other documents require to be submitted". That is not our experience -we regularly need to submit a prescriptive progress of titles and writs referred to for burdens and would recommend that the paper historic deeds are submitted to the Keeper by DX or LP.

Part 2 - Digital application form and submission process

9 Do you agree with the main changes that we propose to make to the application form?

Yes

Comments:

The use of a digital application form with a digital deed prepared and submitted through a secure digital channel should ensure that the application meets the conditions of registration and therefore lead to fewer rejections.

The proposed changes to the paper application form are welcomed, particularly the ability for the application form to be auto filled with information held by the Keeper e.g. from an Advance Notice application, which users could then edit if required.

10 Are there any other changes you suggest we should make with a view to simplifying it and making it easier to follow?

Yes

Comments:

Ensure that the system can cope with long names and designations-one of the problems with ARTL was that there were not enough characters for some designations.

The ability to save and print the deed and application form.

The inputting of data at settlement- in ARTL due to various issues a typical post settlement submission could take over an hour which was not practical. In a system where there is digital creation, execution & submission of deeds then the time the Registers take to update information in the system is key.

11 Do you agree that instead of prescribing the content of the application form in the Land Register Rules, the keeper should publish the land registration application form on an administrative basis so that it can be amended from time to time, following consultation and due notice, without the need for changes to be made to the rules?

Yes

Comments:

12 Do you agree that this approach should be adopted for both applications submitted on paper and applications prepared through a digital service provided by the keeper?

Yes

Comments:

About You

What is your name?

Name:

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What is your email address?

Email:

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

The Church of Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Slightly dissatisfied

Please enter comments here.:

Consultation period too short and not well publicised.

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Would have liked a paper apart to add comments that didn't fit into the consultation questions.